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RAILWAYS ACT, 1921.

PROCEEDINGS OF THE RAILWAY
RATES TRIBUNAL.

SCHEDULES OF STANDARD CHARGES.

STANDARD REVENUE—ALLOWANCE UNDER SECTION 58 (1) (b).

MONDAY, MARCH 23RD, 1925.

FIFTEENTH DAY.



LONDON :

PRINTED & PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE.

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1925

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PROCEEDINGS OF THE RAILWAY RATES TRIBUNAL.

MONDAY, MARCH 23RD, 1925.

PRESENT :

W. B. CLODE, Esq., K.C. (*President*).

W. A. JEPSON, Esq.

GEO. C. LOCKET, Esq., J.P.

FIFTEENTH DAY.

THE RT. HON. H. P. MACMILLAN, K.C., Mr. A. C. CLAUSON, K.C., Mr. BRUCE THOMAS, and Mr. ALFRED TYLOR (instructed by the Solicitors of the Amalgamated Railway Companies) appeared for the Railway Companies.

Mr. F. B. MERRIMAN, K.C., Mr. F. G. THOMAS, K.C., and Mr. JACQUES ABADY (instructed by Messrs. Vizard, Oldham, Crowders, and Cash) appeared for the Traders' Co-ordinating Committee (including the Mining Association of Great Britain); for the National Association of Railway Travellers; and for the following local

authorities: The Boroughs of Leeds, Cardiff, Oldham, St. Helens, West Ham, East Ham, Gravesend, Richmond, Dartford, Southport, Watford, Leamington Spa, Morecambe, and Rothesay; and for the Urban District Councils of Mitcham, Heston and Isleworth, Teddington, Wallington, Surbiton, Harrow-on-the-Hill, Prestwich, Epsom, Cusshalton, Barnet, Hampton, Bexley Heath, and Staines.

THE HON. STAFFORD CRIPPS appeared for the London County Council.

Mr. CYRIL HURCOMB, C.B., C.B.E., appeared for the Ministry of Transport.

President: Mr. Macmillan, have you been able to get any further information bearing upon the future programme at the present time? I called your attention last time to a passage in Sir Ralph Wedgwood's evidence in which he said that he hoped to be in a position to be able to give us some idea of the future programme even beyond what we have got on our calendar at the present time. If you remember, Economics and Expenditure are fixed for the 27th April. Now, I understand it is elected to go on with Economics on that date; is that right?

Mr. Macmillan: That is so.

President: Very well. Could you tell us when we may hope to deal with the question of Expenditure?

Mr. Macmillan: I can inform you of this, that we have been very busy about it and have been considering a number of the questions which arise on the ascertainment of the Expenditure, but I cannot say yet that we could give you a definite date.

President: We may be pressing for it later, so I think you should hold yourself in readiness to give us some date.

There is another matter, Mr. Macmillan, which perhaps you have got information upon. Sir Ralph Wedgwood was kind enough to say that he would be able to furnish, or hoped to be able to furnish, explanatory memoranda to the other side with reference to the figures of Expenditure and Economics, possibly, which have already been put in. I do not know whether any such memoranda have yet been forwarded to the other side.

Mr. Macmillan: I am told that explanatory memoranda relating to Abstracts A and B of the Expenditure have been supplied.

President: I suppose other memoranda will be sent in dealing with other abstracts later. I should hope so; that is as far as they have gone.

Mr. Macmillan: Whenever these abstracts are put in, explanatory memoranda will be furnished to the

Traders. I am told with regard to the items other than Abstracts A and B that there does not require to be the same kind of explanation, because there is no element of depreciation in them, and therefore the Traders will not require such elaborate memoranda as was required for A and B.

President: I suppose you do not think it necessary at this stage to send those memoranda either to ourselves or to the Ministry of Transport, as they are subject to discussion?

Mr. Macmillan: It is just a question of convenience. Some of the points you see may be agreed and may cease to be controversial, and therefore it would be a pity to trouble you with matters which have been arranged. On the other hand, with those matters which remain in dispute I think you should have the material for consideration.

President: Perhaps you could send them to the Ministry, who have been following the Proceedings very closely.

Mr. Macmillan: Yes, we can do that.

President: Thank you. As soon as something definite has been agreed between you two on the memoranda, or the discussion has reached a certain stage when you think it is of interest to us or to the Ministry, you will send those memoranda to us.

Mr. Macmillan: If you please, Sir. We will take that as an instruction from the Court.

Mr. Merriman: With regard to those memoranda, Sir, I do not want to be taken as assenting to the statement that complete memoranda have been sent to us. We are getting explanatory memoranda from time to time. We have intimated that we are not memoranda, or the discussion has reached a certain satisfied with some of those that we have got. The answer—I am paraphrasing it—is: Wait until the 31st March, when you will have the complete thing, and then you will be able to say whether you are satisfied or not. I only wish to make that reservation now.

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[Continued.]

President: Very well.

Mr. Macmillan: Then following the agreed programme I have to-day to place before you, so far as available, the material for quantifying that factor in the process of arriving at the Standard Revenue which is defined in Section 58 (1) (b) of the Act of 1921. In approaching the consideration of this factor, Sir, the Court will appreciate that we are dealing with a rather different matter from that which was considered by the Court last Monday. The factor in the calculation which is defined in paragraph (a) dealt with a closed account. There you were concerned simply with a matter of historical investigation, the ascertainment of the capital expenditure which in fact formed the basis on which interest was allowed at the 15th August, 1921, by the Government. That compartment of the case was therefore a sharply defined compartment. To-day, however, you are asked to deal with a factor which relates to an account which cannot be closed until the Appointed Day arrives, because what we are in search of is the capital raised then provided in respect of expenditure on capital account incurred since the first day of January, 1913, which is the starting point, but which has to be considered up to the fixation of the standard charges. Therefore in this case it is impossible, until the immediate eve of the fixation of the charges, to close this account; but while that is so we can obtain, I hope, from the Tribunal the necessary decisions which will render the presentation of the complete figure on the eve of the fixation merely a matter of arithmetic. The process of the ascertainment of this factor can be defined by you, I venture to think, here and now, so that although the precise amount to be placed in the compartment will have to remain open, the placing of the precise amount in that compartment will become merely a matter of arithmetic, and will not involve any controversy. On looking at the statutory language implied in Section 58 (1) (b) one observes that there are various critical words to which attention must be given, and probably the most convenient way is to invert the language of the Statute and begin at the other end with the expenditure and then apply the various processes which the Statute directs you to do. What, therefore, have we to get as the basis of this calculation? We have got to get expenditure on capital account of the railway companies. You ask next: Yes, but what expenditure on capital account? It is defined first of all by time; it must be expenditure incurred by the railway companies since the first day of January, 1913. That is the starting point for the calculation. Then you ask next: Yes, and down to what time; what is the other terminus of the investigation of your expenditure? It is the period of the fixation of the standard charges. Therefore we are in search primarily of expenditure incurred between the 1st January, 1913, and the fixation of the Standard Charges. That is a positive definition, but there is also a definition, a negative definition, or a definition by exclusion. All such expenditure is to be brought into this compartment; and none of that expenditure must be brought into that compartment which has been included in the expenditure referred to in (a). Therefore you have the expenditure defined both positively and negatively; positively by that time limit within which it has been expended; negatively by this criterion that none of that expenditure claimed under (b) is to be found in paragraph (a).

Then there is yet a third criterion. If it can be shown that any of the expenditure between the time limits mentioned, and not included in (a), has not enhanced the value of the undertaking, then you would subtract any such expenditure from the figure to which the process in paragraph (b) is to be applied. Now that is the definition of the expenditure of which we are in search. It has to have three features: it has to be incurred within certain time limits, it is not to find a place in (a), and it has to survive any attack which may be made upon it by critics who say that that expenditure has not enhanced the value of the undertaking. I think those are the three criteria which are to be applied to the expenditure

put forward for admission to this compartment by the railway companies. When you have ascertained that expenditure, the next thing that you have to consider is: Has there been any additional capital raised or provided in respect of that expenditure? So that the next question is, having got your expenditure, you have to ascertain whether there has been additional capital raised or provided in respect of it. When you have passed that stage and ascertained that in fact additional capital has been raised or provided in respect of the qualified expenditure, the last and predominating problem is the ascertainment of what allowance is necessary adequately to remunerate that capital. Therefore I think you will agree with me that the convenient way really is to approach the problem from the other end. You have first to get the capital expenditure incurred since January 1, 1913; then you have to eliminate so much of that expenditure as has been included under paragraph 58 (1) (a). The figure so ascertained is open to criticism if it can be shown that it has not in fact enhanced the value of the undertaking. The next question is whether the capital has been raised or provided in respect of the figure so ascertained; and then you have to ascertain what is the proper remuneration to give to that capital. Now, certain things have happened since last summer, when this paragraph was first under your consideration. One important thing, of course, is that we have now concluded an investigation into paragraph (a), and, therefore, that the content of paragraph (a) is now ascertained. You are now, and my learned friends are now, in a position to apply that criterion which paragraph (b) prescribed, namely, that none of the expenditure put forward under (b) is to be found in (a), because (a) being ascertained, you have therefore the means of judging whether any of the expenditure in (b) duplicates any of the expenditure that is already in (a). We have made that amount of progress. In the next place, we have the decision of the Court upon those very important words "raised or provided"; and that decision, after very full discussion in the House of Appeal, has been affirmed, and therefore we have a final determination of what those words "raised or provided" mean in this particular statutory context. It occurred to me, Sir, that probably the most convenient course would be to remind you at this stage of what was said in your own decision in relation to this compartment of the case, and I have before me the decision of the Tribunal pronounced on the 31st July, 1924. This topic, of course, bulked very largely in your Judgment because of the importance attached to it, and the elaboration of the argument presented upon it. There are two passages in your Judgment which are illuminative of the present problem, and I think it will be convenient just to run through the views expressed by the Court on that occasion. If you will be good enough to turn to page 324 you will find at the bottom of the first column what you have treated as the sixth question, and it is entitled "Raised or provided"; but it is under that topic that you made your survey of paragraph (b). You said there: "The evidence shows that for some time past it has been the practice of Railway Companies to provide money to meet expenditure on Capital Account partly out of the proceeds of capital issued to the public and partly by using such liquid assets representing the accumulated balances of their respective savings bank, pension, superannuation and general reserve funds as might from time to time be available. This latter practice is sometimes referred to as 'financing the Capital Account out of the internal resources of the company.' It existed in 1913, when the sum by which capital expenditure exceeded capital receipts amounted to £35,351,703, from 1913 to 1922 when the sum had risen to £49,911,146, and at the close of 1923 when the sum was approximately £52,200,000. It exists at the present time. It is admitted that this policy has been in the interests of all parties." Then you proceed to say: "It has not

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[Continued.]

been the practice to capitalise the money taken from these resources. It was neither created 'capital' of the company under any of the company's statutory provisions, nor has it ever been treated as 'capital received' in the accounts of the companies, either when it was first used, upon amalgamation, or subsequently. Ultimately if and when an issue of capital was made, the sums taken from these resources were to that extent replaced: in the meantime the capital account remained overspent. It was in this state of things that the Railways Act, 1921, was passed. Before that Act legislation had not limited the amount of revenue which a railway company might make, nor proscribed the elements of which it must be made up. Hence, until by the issue of additional capital, new shareholders were introduced to participation, the then existing shareholders took, as an additional increment to the profits of their holding, such additional profits (if any) as the works provided by those uncapitalised funds made." If I may respectfully say so, I think you go very much to the heart of the position there, that the whole of this scheme which we have before us on Section 53 is the consequence of the complete alteration in the railway policy which was inaugurated in the Act of 1921, a new method and a new system which has been set up. "Now, by the Railways Act, 1921, an artificial statutory 'Standard Revenue' has been set up. This has the effect of limiting the amount of Revenue which a company can earn. Further, although in total this Revenue is one sum, that sum is to be made up of certain specified ingredients—namely, the allowances (to use a negative term), including the Revenues of 1913, which are to be given on certain capital outlays which the companies have made upon their undertakings, which outlays are represented by capital or capital expenditure. When the Standard Revenue has been determined, rates are to be fixed proportional to the Revenue to be earned. It therefore becomes necessary to see how this new system has affected the position of these uncapitalised funds, to see whether they are admitted to recognition as ingredients in Standard Revenue, and how far, if at all, they are to be 'remunerated'."

Then I think one may, perhaps, pass over to the next page, and there in the first column you find under head (3), referring to (b) as one of the three ingredients: "An allowance for 'capital raised or provided' in respect of capital expenditure from the 31st day of December, 1912, to the appointed day, which does not fall to be remunerated under the last heading (2), Section 53 (1) (b). By way of making the scheme complete and in a sense perpetual, provisions are inserted under which, at each subsequent revision of the Standard Revenue, the Tribunal are to add an allowance." Then you discuss at considerable length what is the meaning of those words "raised or provided," and you recall the argument which I ventured to submit as that time on the word "provided." There was, of course, no controversy on the word "raised"; it was on the word "provided" that the battle was fought. We sought to establish that the word "provided" was intended to cover, and did cover, these funds supplied from the internal resources of the company. For the reasons stated in your decision you came to the view that that was not well-founded, and the matter having been taken further, the Court of Appeal agreed with the Tribunal and decided that your view was right. Therefore "provided capital" does not cover capital borrowed from internal resources of the company.

President: Have you got the Order of the Court of Appeal yet?

Mr. Macmillan: We have only the Judgment. We can give you the Judgment, but there is no final Order. It is not settled yet, I am told.

President: I think we have got the Judgment.

Mr. Macmillan: Yes. However, if I may say so, there is really no controversy upon this at all. We fully appreciate the position, and I think it is made abundantly clear, not only by your own decision, but by the further argument which took place in

the Court of Appeal. The word "provided" we understand is satisfied by cases where, for example, a company has issued capital for the purpose, let us say, of acquiring another undertaking, in contradistinction to the capital which is raised by public subscription in the ordinary way.

I will give you an example in a moment or two of what "provided capital" really would be. After setting out the reasons which were in your minds for coming to that decision, on page 326 you say this: "If the above interpretation is correct, one course for the railway companies to pursue would seem to be 'to raise or provide additional capital in respect of expenditure on capital account incurred since the 1st day of January, 1913, and not included in the expenditure referred to in the last preceding paragraph.' We have been assured that they have capital powers sufficient for this purpose. They can then claim an allowance on 'capital raised or provided.' The Act also contemplates that they will take a similar course before the expiry of every subsequent period for revision. In the meantime they can finance their capital account out of their own resources. The capital so to be raised or provided would seem to be approximately between £9,000,000 and £10,000,000." It just happens to be a little over £10,000,000, in point of fact. "It has been urged that the interpretation which we are adopting robs the expression 'capital provided' of all meaning and empties it of content, for, if what the railway companies contend to be 'capital provided' is held not to be so, there remains nothing else which can be so considered. We venture to suggest that capital provided may be intended to cover capital created and issued for exchange purposes but not 'raised' from the public, seeing that this is some of the 'capital' for which we are asked to find an allowance under Section 53 (1) (b)." So that you have found in the railway finances that there is both raised capital and provided capital within the sense of the Statute, and that there are types of capital which correspond to both these designations, the raised capital being the capital which is the ordinary capital obtained from the public by subscription, and the provided capital being the special capital which has been issued for a particular purpose, for exchange purposes, as you instanced by the companies, in contradistinction to the raised capital. Therefore, you find a meaning for each of those words which satisfies the statutory term.

Now, that being the state of matters, as I have said, the Court of Appeal agreed with the Tribunal and reached the same conclusion—that "provided" did not include sums of money which came from the internal resources of the company, and I think that perhaps almost the determining feature in the Judgment was that those sums could not properly be described as capitalised at all; that they had not the legal attribute of capital, the well-known attribute which involves you going through certain processes before the funds become stamped with the legal character of capital of the undertaking, and that this money, though no doubt used for purposes which were capital in their nature, and which, although capital expenditure properly acquired, do not acquire the characteristic, the legal characteristic, of capital at all. I think that that was probably the root idea in the decision.

Well now, having those two matters before us, first that the content of paragraph (a) has now been settled, and secondly that the precise meaning of the words "raised and provided" has also been authoritatively settled, we approach the investigation of paragraph (b) with a considerable amount of light. We have the means now of excluding from it anything that is in (a), because we know the content of (a). We have also the means of admitting to it anything which is in the form of capital raised or provided in respect of the expenditure. To that extent, therefore, we approach the problem with considerable enlightenment.

I will now ask your attention for a moment to the alteration which has been brought about by those

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[Continued.]

two circumstances. In the original documents "R.T. 2 (a)" to "R.T. 5 (a)," which were placed before you last summer, and which are entitled "Adjustments of Powers of charging to Revenue," we put forward the figure which at that time we submitted was the proper content of paragraph (b), and in folio 1 of each of those documents you find claimed under Item 4 "Allowances necessary to remunerate adequately additional capital raised or provided in respect of expenditure on capital account incurred since 1st January, 1913, and not included in item 3 (as per Section 58 (1) (b))"; and for each of the companies on that folio you find the allowance claimed, with the total in the 6th column. Then the details in respect of each company are given in Schedule "D" in each of those books, and it may be convenient at once to turn to Schedule "D" of the London and North Eastern Railway Company. You will find at page 32 in the case of the London and North Eastern Railway Company's "R.T. 2 (a)," that the total expenditure since the 1st January, 1913, sought to be included under paragraph (b) amounts in the case of this company to £3,188,165. That is the summation of all the various items of capital expenditure since that date not included at that time in paragraph (a) and down to the 31st December, 1923. Then at the bottom you observe "Allowance at 6 per cent. thereon (carried to folio 1)." The submission made by this document was that this expenditure should receive for its remuneration, or, rather, the capital in respect of this expenditure should receive for its remuneration 6 per cent., and some evidence was laid before you upon that; but, of course, no decision was arrived at in view of the turn that the case took. But the important thing is, this was the amount of capital expenditure which we submitted fell under paragraph (b).

With regard to each of the other companies, you will find in the same way their sums. Perhaps it might be convenient if I gave them to you at once.

President: Are you going to give us the figures out of your first book now, or the later figures?

Mr. Macmillan: The figures out of the first book. I wanted to contrast the position as it was originally presented with the position as you now have it. It will hardly be necessary, if I may say so, for you to note them, because they happen to be in papers which are before you to which I shall direct attention in a moment; but it may be convenient to bring them in focus before you in this case. The London and North Eastern Railway Company claimed on capital expenditure of £3,188,165; the London, Midland and Scottish Railway Company in precisely the same way claimed on a capital expenditure of £3,959,131; the Great Western Railway Company claimed on £5,763,180; and the Southern Railway Company claimed on £792,050; the total of the claims accordingly amounted to £17,502,526. That was for the four companies the capital expenditure under (b) upon which the claim was submitted.

Now, following upon the decision of the Tribunal and the Court of Appeal of an ascertainment of the content of paragraph (a), amended figures have now been lodged, and these are shown in "R.T. 2 (a)," "3 (a)," "4 (a)" and "5 (a)" Schedule "D" (Amended). These are smaller but similarly coloured books. Before I go into detail, it is interesting to note the difference in the claims as presented to you now from the claims as presented to you last summer. The London and North Eastern Railway Company, which had originally claimed £3,188,165 as capital expenditure eligible for admission to paragraph (b), now claims £2,858,682; their claim is diminished to the extent of £329,483. The London, Midland and Scottish Railway Company's claim, formerly £3,959,131, is now £4,084,891, an increase in this instance of £125,760. The Great Western Railway Company claimed £5,763,180, and they now claim £5,858,313, being an increase of £95,133. The Southern Railway Company, whose original claim was £792,050, now claims £793,725, an increase of £1,675. The result

is that in the case of the London and North Eastern Railway Company there is a diminution of claim to the extent of £329,483, but in the case of the three other companies there is an increase in claim amounting in the aggregate for the three to £167,571. The result of that is this, that upon the whole figures the original £17,502,526 is diminished by a net sum of £161,912, and therefore the sum now claimed upon is £17,340,614.

The method upon which the companies have proceeded in submitting their amended Schedules "D" has been in each case in the first line to take the original expenditure claimed upon from their larger volume, and then to show certain adjustments which have been subsequently made upon that figure. If you will be good enough to look at the London and North Eastern Railway Company's Schedule "D" (Amended) you will see the first line gives you the figure which I have more than once mentioned, the figure in the original Schedule "D" of £3,188,165. Then follow a series of adjusting items. The first addition is "Adjustment arising out of certification of interest on capital claims by the Ministry of Transport." That means that, in consequence of certain items being excluded from paragraph (a) by the Minister as not properly falling within that compartment, there have been certain transfers into compartment (b); that is to say, the expenditure on which the Government did not pay, but which is nevertheless eligible for inclusion under (b). Having received no recognition under (a), it is therefore qualified for admission under (b). The first adjustment is therefore consequent upon the content of paragraph (a) being ascertained, and transfers have been made of the excluded items to paragraph (b). Then there was a small amount omitted from "R.T. 2a," West Riding Railway Committee, which is now added; and then there is a deduction of a large sum in the case of the London and North Eastern Railway Company, £436,808 in all, which is described as "Adjustment in respect of displacements, &c." That I will say something about a little later. Then there is a transfer in respect of the Seaford and Sefton Junction Railway, which is merely a transfer from one heading to another heading, and therefore does not reflect itself in the total column at the end; it is merely a taking of it out of the Miscellaneous head and putting it under the railway head; it is a mere designation of the item. The result of that is this, that you add to the original figure of the London and North Eastern Railway Company two items, and you deduct another, and there is brought out at the end £2,858,682 as the sum claimed upon. We thought, Sir, that that was a convenient way to do it, so as to reconcile the original statement with the statement now put before you, and to explain how the alteration had come about.

Each of the three other companies has done the same, but the items are different in each case. The London, Midland and Scottish Railway Company's Schedule "D" (Amended) has only one alteration to make on its original figure by way of addition, and you will see that "Amount credited in the London section of the claim under Section 58 (1) (i) for sale of rolling stock, now credited in the London and North Western Company's claim under Section 58 (1) (a)" results in a sum of £75,760 being added to the original figure. That is the only adjustment in their case. The Great Western Railway Company has one addition and one deduction. They add in respect of "Cancellation of portion of amount credited at foot of folio 9 of Exhibit R.T. 4a, £91,793," and they deduct an item in respect of "Great Western and Great Central Joint Committee—amount of expenditure transferred to claim under Section 58 (1) (a) Great Western proportion one half, £1,657," resulting in a net increase of the Great Western claim. Then finally the Southern Railway Company has certain small additions amounting to £1,297, resulting in a net increase of £1,675, so small a figure that one need not say much about it,

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[Continued.]

because it costs more to discuss it than its ultimate effect upon the Standard Revenue will be.

Now, that is the method upon which these accounts have been dealt with, and the new credits are explained as transfers from compartment (a), and the amount in the case of the London and North Eastern Railway Company of the West Riding Railway Committee, the transfer from paragraph (a), amounts nett to £173,159. There was a debtor transfer and a credit transfer. The debtor transfer is in the case of the Great Western Railway Company a small sum of £1,657, the credit transfers amounting to £174,816, and the result is that the nett effect of the transfers is £173,159. If you add to that the £9,944, being the omitted West Riding Railway Committee, in the London and North Eastern Railway Company you get £183,103 new credit. Then the new debits are composed of amalgamation adjustments, book entries, and so on, about which I shall say something a little later, amounting to £345,015. If you put the credits against the debits; that is to say, if you put the credits of £183,103 against the debits of £345,015, you get back again to the figure of £161,912, being the difference between the original statement and the present statement. It is, perhaps, a little difficult to explain orally to you, but it will be on the Note, and that gives you clearly what has been done since these tables were before you, and that reconciles the position of the expenditure and the new items.

I should explain that all that has been deducted from (a) has not been transferred to (b); that is to say, that when an item was excluded from (a) it was not necessarily transferred to (b). Each one has been examined, and one or two items have been discarded altogether, and are not now claimed upon at all. Then one or two items have been excluded from both (a) and (b) by us in respect that they relate to pre-1913 expenditure. They have been identified as relating to expenditure pre-1913, and therefore are not admissible into compartment (b) at all. So that it is well to explain that you will not find a transfer, so to speak, *en bloc*, of what has been excluded by the Minister from our compartment (a) to our compartment (b), but that there has been a re-scrutiny, and certain of the items rejected from (a) have also been rejected from (b), and will not be found there now.

If you take those items of capital expenditure as now adjusted, that is, all expenditure incurred since the 1st day of January, 1913, and down to the 31st December, 1923, it is all expenditure of a capital nature, and it is none of it expenditure included in (a). Therefore, we have got a certain length towards the determination of the figure which is to be included in this compartment of the case. I am, of course, quite unable at the moment to say whether there will be any criticism upon those adjustments which have been made; I can only at this stage propound those as being the proper adjustments to make, and await any criticism that may be made upon them. But assuming that those figures as now adjusted truly represent capital expenditure of the companies since the 1st day of January, 1913, and not included in compartment (a), the next matter is this: that those amounts of capital expended in order to qualify for recognition under Section 28 (1) (b) must be represented by capital raised or provided in the sense in which these words have now been authoritatively construed. There must be capital raised or provided corresponding with, or equivalent to, these capital sums of expenditure before the sums are qualified for recognition and remuneration under paragraph (b). Now, on that our submission is that the condition of the investigation is satisfied if in point of fact there is presented to you new capital raised or provided by the railway companies equivalent to the sums which are set out in each of the companies' amended Schedules "D." Your question is, I submit, with regard to each of the four sums in amended Schedule "D." is that sum represented by new or additional capital of that railway company making the claim? and if the answer is in the

affirmative, yes, there is new capital or additional capital—let us say additional capital—to what was in existence in 1913 corresponding in amount to those sums expended by the company and qualified for admission under compartment (b), then we have satisfied the condition of obtaining the remuneration for such capital as prescribed by the section, and that is how I present the matter to you.

Perhaps I should say this also, that the amount will, of course, have to remain open; each company is from day to day practically incurring capital expenditure which would fall into compartment (b), and will go on doing so until the day when you fix the charges. The only way in which that additional expenditure can obtain its remuneration is, as we are now assured, by its being represented by capital raised or provided, and therefore we shall have, of course, to present to you additional raised or provided capital up to the moment of the fixation of the charges corresponding to that expenditure which is now going on on capital account, and we shall have to bring the account to a close on the eve of the fixation in this form of presenting to you additional capital corresponding in amount to the actual expenditure since the 1st January, 1913, not included under compartment (a), and we shall present that capital raised or provided to you for remuneration by way of an allowance under compartment (b). Our submission, Sir, is that in that way we fully satisfy the requirements of the Act.

President: You do not tell us whether you are going to give evidence that the capital was raised in respect of that particular expenditure or not. You rather left it that we must infer that it was because it was there.

Mr. Macmillan: Because it is there. That is the first proposition. I put it that way, if I may so, advisedly, for this reason, that in the case of a railway company, as you know, there is never precise allocation of capital raised to any expenditure; that is not the way in which the railway companies conduct their finance. As you know, the actual account of the railway companies as prescribed under the Act of 1911 does not discriminate between various ingredients of that capital account. The capital amount raised goes, so to speak, into one reservoir, and when a company goes to Parliament for the purpose of obtaining power to construct additional works it, of course, puts forward an estimate of what the expenditure will be on those works, but there is no requirement that that sum which is authorised to be raised shall be expended upon those works then authorised. I need not remind you, Sir, of the familiar clause in every railway Bill, that "the capital authorised under this Act shall be applied only to capital purposes," but it is not required to be applied to the particular enterprise which Parliament has then sanctioned; it goes into the general capital account, and all Parliament requires is that it shall be applied to purposes which are capital purposes. Of course, one can see at once that that must be so, because the railway companies, for example, spend large sums, let us say, in buying stores; they are carrying out some particular capital work; they do not debit that work with the amount of material drawn from store for that particular enterprise; they simply take so much from store and use it in that particular work or enterprise, but you do not have in the railway companies' books ledger entries for each work in which you put down on the one side the estimates for that work, or, if you please, the outlay on that work as it may be from time to time, and on the other side of the account sums from their capital for that purpose. That is not the way in which railway accounts are kept. What you do is, you have a general capital reservoir, and upon that you draw from time to time for any particular work you are doing, and there is no requirement that the company shall apply the particular sums which Parliament authorises them to raise from time to time to any particular purpose except this, that it must be applied to capital purposes; but it is not possible to say, with regard to any particular item, as a matter of railway book-

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keeping, any particular block of capital raised, that that block of capital has, in point of fact, been all expended upon some particular work, because what happens is that the particular work, when you examine it, is composed of material drawn from the stores of the company which in turn have been provided out of capital raised at different times. Therefore, the method financially which is pursued is this, that you get additional capital as you require it, and, of course, as you have new works authorised you do acquire additional capital, but the additional capital raised from time to time goes into a common fund and is drawn upon from time to time, and is drawn upon for the purpose of all the capital works of the railway company then in hand, and is not, as a matter of book-keeping, allocated to any particular one.

Therefore, my primary submission is this, that if additional capital has, in point of fact, been raised or provided corresponding to the capital expenditure since 1913 not falling into compartment (a), then the condition of the paragraph has been satisfied. I think you will appreciate, Sir, how that comes about. While you are dealing with the first part of the investigation you are dealing, of course, with the existing capital which is to be remunerated. It is remunerated by certain standard revenue, and what comes in under (a) will go to the benefit of that capital, but (b) contemplates additional and something different; it contemplates additional capital, new capital, and that new capital must find its remuneration under this paragraph, or it can find it nowhere, because whenever you increase the number of shareholders of a company you, of course, increase the number of persons among whom the dividend fund is divisible.

Unless you were to provide a new source of revenue or remuneration for your new capital, the result of the introduction of new shareholders would merely be to reduce the participation of the shareholders, who are now more numerous, in the dividend fund without in any way increasing the dividend fund proportionately to the number of shareholders. This contemplates an increase in the shareholders of the company, and it contemplates the remuneration of those increased shareholders, whereas the earlier part of it is a dealing with an existing body of shareholders who look for their remuneration to existing works. That position leads, I think, to this conclusion, that you are to ask the question first: Are there additional shareholders? Whenever there is raised or provided new capital there are additional shareholders; there is, therefore, additional capital to be remunerated. How is that to be remunerated? It is not remunerated under the preceding part of our investigation. It has to look for its remuneration to this compartment and from this compartment it will draw its remuneration and no other. What the Statute in those circumstances requires, therefore, is that there should be additional capital, and that that additional capital should correspond in amount with the capital expenditure claimed.

President: It must be taken to be in respect of the previous capital.

Mr. Macmillan: If you please.

President: That is your argument?

Mr. Macmillan: That is exactly my argument. In the book-keeping sense, of course, capital is not raised in that way; it is not raised in the sense in which an Accountant might exact, that is to say, by saying: Do you find that you have raised a certain amount of capital and carried it to a certain account and debited that account with certain capital expenditure? That is not the way in which these things are done, and that is not what Parliament exacts from railway companies. What it exacts is that they shall expend their raised capital only upon matters which are of a capital character.

Mr. Jepson: Following that up a little further, I assume that as a matter of book-keeping when they are dealing with expenditure upon certain works it is clearly shown in the books how much of that expenditure is charged to capital, and how much to revenue.

Mr. Macmillan: Oh, yes.

Mr. Jepson: So it is possible to find out what is the capital expenditure upon any particular work.

Mr. Macmillan: That is true, but you cannot say the source from which it is drawn; that is the point.

Mr. Jepson: No, I quite agree.

Mr. Macmillan: Of course you could not, so it is not possible.

Mr. Jepson: In the previous statements you did in the Schedule give all the works upon which that capital expenditure shall have been made, and allocated the amounts in respect of that.

Mr. Macmillan: Certainly.

Mr. Jepson: You have not in regard to these additions which you have made, so far as I can see—you may have supplied it somewhere—given similar particulars with regard to the things that were left out of (a), or not passed by the Minister under (a), and now come into (b). I do not see any similar particulars given with regard to the details of the works on which that expenditure was made.

Mr. Macmillan: I appreciate that, and I think I must explain that, but for the moment I am concerned with this proposition: It is quite true, as you have pointed out, of course, that a railway company is able to say how much a particular work has cost them; they must do that; and not only must they do that, but they must also be able to say how much is a debit against capital, and how much is a debit against revenue, because they must know what sum is to be carried to the capital expenditure account. That is all right; there is no doubt, as I shall submit, that all the capital expenditure for which we are claiming in compartment (b) satisfies that requirement. It is represented by works which are the produce of capital expenditure, and you get told the works, and indeed Schedule D, subject to the point you made a moment ago, shows you the works in question and what the expenditure has been. If it is to be suggested—I do not know whether it is or not—that not only must you show this money has been expended upon capital works, but that you must show in some remarkable way, unknown to me, that the capital raised and expended upon those works must be identified throughout, then I should challenge that proposition altogether and say that the companies are under no obligation to say that the expenditure under paragraph (b) has, in point of fact, been drawn item by item from a particular fund of capital raised or provided.

Mr. Jepson: Has that suggestion been made by anybody?

Mr. Macmillan: Well, I do not know really whether it has or not. I merely made that explanation in answer to a question from the learned President who asked me what I meant by "in respect of," and I think he had in his mind possibly this, that there would require to be some allocation of the expenditure to the precise sum raised; that is to say, you should open an account and put on the one side so much money raised or provided under some resolution for the particular purpose, and then on the other side the debiting of those sums of capital expenditure claimed under (b) and then close the account; I do not know whether that is what was in your mind, Sir?

President: I only wanted to know how you put the case; that was all. As I understand it, you say you raised it in respect of the capital expenditure, although in the process you put it into a reservoir which is common to other purposes.

Mr. Macmillan: Precisely; that is exactly right. You will find at the foot of the new amended Schedule D, and we will take the London and North Eastern first of all, certain notes explanatory of the position. "The capital expenditure set out in column 9"—that is the total column—"is given up to the 31st December, 1923. The capital expenditure incurred (1) in 1924, and (2) after 1924 and up to the date upon which the standard charges are fixed, in the first instance will, as soon as ascertained, be added thereto, so that the schedule will comprise ex-

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penditure on capital account of the London and North Eastern Railway Company and of the constituent and subsidiary companies of which it is formed from the 1st January, 1913, up to the date on which standard charges are fixed in the first instance, which is not included in the expenditure referred to in Section 58 (1) (a). The London and North Eastern Railway Company will raise before the date upon which the standard charges are fixed in the first instance additional capital in respect of expenditure on capital account incurred since the 1st day of January, 1913, and not included in the expenditure referred to in Section 58 (1) (a) and particulars will in due course be delivered to the Railway Rates Tribunal of all such capital raised and an allowance will be asked for equivalent to the amount necessary to remunerate adequately the additional capital so raised." I may tell you exactly the London and North Eastern Railway stand in point of fact: they have not raised the capital equivalent to the £2,858,692. On the 18th February of this year the shareholders authorised the creation and issue of new stock to a large amount, to be precise, £20,852,342, and also authorised borrowing to the extent of £15,449,050, being within the capital powers which the amalgamated company possess under the amalgamation scheme. These are the capital powers which they were entitled to exercise. Then, on the 6th March, 1925, the Directors in pursuance of the powers conferred to them by the Shareholders in General Meeting, because the method generally adopted, as you know, is that the Shareholders authorise the capital to be raised and created while the precise method and time of doing so is delegated to the Directors, having those general powers the Directors on the 6th March, 1925, resolved to issue £6,000,000 in the form of 5 per cent. new Preference Stock at 98, and that £6,000,000 will cover the capital expenditure in question in this inquiry.

Mr. Locket: That has been issued.

Mr. Macmillan: Yes, but it has not come in yet.

Mr. Locket: There is about £4,000,000 subscribed.

Mr. Macmillan: It is issued in this sense, that the public are now asked to subscribe, but the result of the issue is not yet ascertained.

Mr. Locket: I thought it was; I thought about £4,000,000 had been subscribed.

Mr. Macmillan: The actual result of the issue, I am told, is just over £4,000,000.

Mr. Locket: Yes; so that will cover this £2,858,692 and leave something to cover the further capital expenditure in 1924 up to the date when the standard charges are fixed.

Mr. Macmillan: Up to the date of fixation. There will, in short, be additional capital which has been created and which will correspond in amount to anything that we can claim for under this compartment of the case.

Mr. Locket: That issue is prospective as well as applying to past expenditure.

Mr. Macmillan: Yes, it is prospective as well as retrospective. I do not know whether you will wish particulars of the way in which that was gone about. I have just given you a general account, but a witness will, if you please, tell you what was done. I do not know whether you care to have certified copies of the Minutes first of the Company and then of the Directors, showing how this was done; they are available if desired, and my friends can have them if they wish. Perhaps I might just give you the actual terms.

President: You might hand in a copy to the registrar.

Mr. Macmillan: I will supply them; that will be the shorter method. (*Documents handed in.*)

With regard to the London, Midland and Scottish, may I just tell you with equal brevity what has happened there. On the 9th January of this year the Company passed a resolution authorising the Directors to raise £15,488,106 of new Stock and £9,717,077 of Debenture Stock, again in the exercise of the capital powers which the new Company possesses under the amalgamation scheme. Then on the 9th

January the Directors resolved to create an issue of £7,500,000 5 per cent. Redeemable Preference Stock, 1955, at par, and, as you may know from other sources, it was all subscribed. That is noted in the same way at the foot of "R.T. 3 (a)" Schedule D amended. If you would just look at the note at the bottom you will see the first part of the note corresponds with the London and North Eastern Company's note. Then they say: "The London, Midland and Scottish Railway Company have raised additional capital by the issue of £7,500,000 5 per cent. Redeemable Preference Stock, 1955, in respect of expenditure on capital account incurred since the 1st day of January, 1919, up to the date on which standard charges are fixed in the first instance, which is not included in the expenditure referred to in 58 (1) (a)," and they claim an allowance at the rate of 5 per cent. to remunerate adequately such additional capital. Then they go on to say that they will raise capital before the fixation date corresponding to the additional expenditure on capital account which will be made before that date. That sum was all subscribed. Then on the 26th February the Directors of the London, Midland and Scottish passed a resolution resolving to apply of the proceeds of the issue the sum of £4,034,891 to paragraph (b) of Section 58, subsection (1), that is to say, to the expenditure from the 1st January, 1913, to the 31st December, 1923. In that way they earmark the figure. But I am not here to suggest, and do not let me give you the impression that I am suggesting that that means there is an account open to which those items are debited; I do not want you to get that impression at all.

President: I have not at present.

Mr. Jepson: You may put it as high as this, that there was no necessity for them to pass this resolution.

Mr. Macmillan: I do not think there was, but it is quite a good idea, because it earmarks the money in that particular way, and it is also satisfactory to the shareholders to understand what the meaning of going for capital is, because I do not think the Companies, had it not been under the stress of the decision of this Court, would probably have been in the market for capital at this present moment. They were at credit so far as meeting current capital expenditure was concerned, and this procedure has been frankly to satisfy the requirements of the statute and to put our house in order to correspond with the statutory position, otherwise, as you may say, the position might be exceedingly awkward for the railway companies.

Then take the Great Western Railway Company: perhaps we had better look at their footnote in the first instance. They tell us that they have raised additional capital by the issue of £1,600,000 5 per cent. Debenture Stock, and £2,889,784 5 per cent. Preference Stock in respect of expenditure on capital account incurred since the 1st day of January, 1913, and not included in (a), and they claim 5 per cent. on that; they also inform you that they will raise such additional capital as may be necessary to represent additional capital expenditure from the 1st January, 1924, to the date of fixation. In this case, if you please, you will notice the item of £2,889,784 5 per cent. Preference Stock. That sum, as you probably recall, is the capital provided as distinguished from the capital raised. That was the amount of Stock issued in exchange for securities of the Swansea Harbour Trust when it was vested in the Great Western Railway under the Act of 1923, Section 6, and this is typical provided capital which in the view of everyone meets the expression or satisfies the expression "provided capital."

President: It says "raised" here, does it not?

Mr. Macmillan: Yes.

President: It is applicable to both.

Mr. Macmillan: Strictly speaking, it is "provided." Indeed, it has received at all hands special recognition as typical provided capital. The result is, therefore, that in the case of the Great Western

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Company they have raised or provided the sum of £1,600,000 in one class of Stock, and they have raised the other sum in respect of the Swansea transaction. The total accordingly is £4,489,784 of capital raised or provided within the meaning of compartment (b), and they would of course raise whatever more is necessary before the closing of this account.

The Southern Railway Company, first of all, on the 7th March, 1924, resolved to create £2,000,000 new Stock and then the Directors, in pursuance of the powers conferred on them by the Company in General Meeting on the 22nd October, 1924, made an issue of £2,000,000 5 per cent. Redeemable Preference Stock, 1924, and this yielded £1,990,000. Then on the 11th March, 1925, the Directors of the Company by resolution earmarked £757,725 to this head. If you will look at the Southern Railway Company's book, Schedule D amended, you will see they put it in this way: "The Southern Railway Company have raised additional capital by the issue of £1,020,100 5 per cent. Redeemable Preference Stock, 1924, in respect of capital expenditure on capital account incurred since the 1st day of January, 1913, and not included in the expenditure in (a)," and they claim an allowance and tell you that they will do as their fellows have done. But that sum raised is in excess of the sum which is claimed, and they have appropriated already to this head on account by resolution of the Directors on the 11th March, 1925, the sum of £757,725 out of the produce of their issue. I am reminded, and it is just as well to mention it, that in this instance there is also a small item of provided capital technically so-called in connection with the Isle of Wight Railway, where exchange securities were created; £30,000 is the amount.

To resume the position, therefore, as we come before you to-day, the Companies have either raised or provided, or are in process of raising or providing, or will before the day of fixation raise or provide additional capital in the sense of new capital corresponding in amount to the total capital expenditure upon which they will claim remuneration under compartment (b), and my submission to you is, if they present to you that new additional capital corresponding in amount to what they claim upon in compartment (b), it will be qualified in the statutory sense for your recognition and will be entitled to an allowance adequate to remunerate it. We shall, so to speak, have put the house in order, and shall have created or provided additional capital corresponding to the amount claimed for. You will appreciate, of course, how vital it is to the railway companies that this should be done in protection of the 1913 Shareholders, because if this were not done, in consequence of the decision of the Court, the 1913 Shareholders would, of course, be very gravely prejudiced indeed, because their position would be that there would be a lot of new Shareholders admitted to participation, but there would be no increase in the sum to be divided among them. Therefore, you have to bring the two things abreast of each other, the new Shareholders and the new source of revenue, the figure which represents their remuneration.

Mr. Merriman: May I ask Mr. Macmillan to be good enough to let us have as soon as possible the various resolutions that he has referred to.

President: I am sure Mr. Macmillan will do that.

Mr. Merriman: I understand some are not available at the moment. I understand the earmarking resolutions refer to the Southern Railway and the London, Midland and Scottish.

Mr. Macmillan: The London and North Eastern also have an earmarking resolution.

Mr. Merriman: We should like them, and I am interrupting now because it is intimated that some are not available at the moment.

Mr. Macmillan: They shall all be handed to my friend; we had better put them all together.

You appreciate, of course, that the argument may take two stages. The first stage may be simply this:

my friend may ask me: "Have you raised capital, or provided capital, equivalent in amount to the capital expenditure you are asking us to recognise, or will you raise or provide it before the day of fixation?" The answer to that, of course, is in the affirmative. I apprehend—I do not know—that he may then go on to say: "Is the capital expenditure for which you have raised or provided the equivalent capital in this position that you can say that the additional capital is in respect of that capital expenditure?" I suppose that may be the point to which he may direct his attention, but I do not know. I have by anticipation, perhaps unnecessarily, given you the explanation of the words "in respect of" as we conceive that those words should be construed, and I have also explained to you how, in practice, if I may say so, that is the proper way in which to approach this problem from the point of view of railway finance.

Now, I think it only remains really to explain the adjusting items which have been made perhaps a little more closely, and I am not sure whether it might not be better in this to ask Mr. Quirey to explain exactly what has been done rather than to tell you in the first place myself and then to take it from him in evidence, because Mr. Quirey has prepared here a proof for me which is really more of the nature of an Accountant's statement of figures than the ordinary evidence, but it just explains exactly how each of these items has been altered, and why, and I really think that might be the most convenient way of explaining those items rather than doing it twice over; you will get it with Mr. Quirey's usual precision.

Mr. Jepson: Perhaps before Mr. Quirey goes into the box I might be allowed to ask you a general question: it is part of the duty of this Tribunal to see that the amounts included under (b) have not been included under (a). We have a complete Schedule, subject to the qualification I made a few minutes ago, of the works in respect of which the expenditure under (b) is claimed for allowance, but, so far as I know, I have not seen any statement of the works upon which the 5 per cent. has been allowed by the Government during the period of control so as to see for ourselves that the items have not been included twice. I do not suppose they have been, but we have to be satisfied that they have not already been included in (a); how is that satisfaction to be brought about?

Mr. Macmillan: Mr. Quirey has a reconciliation statement which satisfied me, but I should like to know whether it would also satisfy the Tribunal that there has been no overlapping. He can demonstrate, I think, beyond dispute on the figures that there is no overlapping, and perhaps he may do that for your satisfaction. Of course, I appreciate that you must verify that; I see that, obviously; but I think he can do it, if I may say so, to demonstration by the figures which he can put before you.

Mr. Jepson: Figures may be satisfactory in themselves, but with regard to the figures in respect of the particular works as to which allowance is claimed under (b) we have no means, so far as I know, of comparing those works with the works in respect of which the 5 per cent. is to be allowed under (a).

Mr. Macmillan: I think probably on that the most convenient way would be to get from Mr. Quirey the exact explanation of how it has been gone about.

Mr. Locket: Has that reconciliation statement been submitted to the Ministry of Transport, because it seems to me that they are the body who can most accurately check it?

Mr. Macmillan: I think the suggestion, if I may say so, is a good one; it might be given to the Minister of Transport for his observations.

Mr. Locket: The Minister knows what they have certified under (a); probably the Ministry are the only body that really does know.

Mr. Macmillan: You will appreciate that what I am addressing myself to to-day is this: I really think the most useful course would be a direction

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from you upon the points which have come up. You cannot, as I say, complete this compartment to-day, and that, of course, is quite obvious, but you can, on the other hand, direct what you want to be done, and you can decide upon the proper content of this compartment quite easily. After that, it becomes simply a matter of putting in the proper figures, and, for example, any check which you might desire made, or any method of check, has simply to be prescribed by you and we will satisfy it, of course. My friends have had a lot of these figures, and they have been going over a great many of them to see whether they are satisfied or not, but I think myself the most businesslike way to go about it would be that we should leave you this afternoon, or afterwards, if you desire to consider the thing, with a decision as to what we are entitled to put into this compartment, and also an instruction from you upon any checks or means of verification which you wish upon what we put in. If we do that, we will really have cleared up, I think, all the difficulties that surround paragraph (b), and there will then be merely a matter of our performing of what you require of us in that respect, and, of course, we are anxious to satisfy you in every way upon each item, and to satisfy, of course, my learned friends also, and the Minister, upon every item upon which we claim; but the method of compilation is of course the main thing to have decided, and the method of checking also, if I may say so. Then I should call Mr. Quirey upon some of the figures in order that he may give a more full and accurate explanation than I have given myself.

Mr. Locket: Mr. Hurcomb, I suppose you would accept that reference?

Mr. Hurcomb: Yes, I think we can do it. May I remind you that in the Minister's original Memorandum F.4885 it was suggested that the capital expenditure claimed under (b) should be verified by the Minister, and that that under 58 (1) (a) agreed with the Companies' accounts, and, of course, any assistance we can give to the Tribunal in that matter we shall be happy to give.

Mr. Locket: You see point Mr. Jepson has raised, and it is a very important point. We have to satisfy ourselves that there is nothing included under (b) which had previously been accepted under (a).

Mr. Hurcomb: I quite appreciate that.

Mr. Locket: We have not got the items that appear under (a); we have no means of checking it ourselves; of course, you have all the details of how the figures under (a) are made up, and if you would undertake that reference it would assist us materially, if I think.

Mr. Hurcomb: I think what we had in mind here really was the reconciliation of the figures in total which can be done with the Companies' accounts in a way which I think would satisfy the Tribunal and the various parties. I think, if I may venture to say so, as Mr. Macmillan suggested, if we see the reconciliation statement which Mr. Quirey proposes we shall see whether we can get on fastest by going in that form in a way which will satisfy you entirely before you come to your determination.

President: You say, let us hear Mr. Quirey first and we will see what is necessary afterwards.

Mr. Hurcomb: I think, if I may say so, that would be the most satisfactory course.

Mr. Macmillan: I must say personally I felt exactly the same way when I looked at the figures. We will see if anything is left over which you wish checked or verified beyond that, and, as Mr. Hurcomb is good enough to say, he will act as assistant to the Court in that matter.

Mr. Merriman: May I make a suggestion about that? This particular table we have only just seen, but everything up to this last table has been checked, and so far as we are concerned, we are satisfied that there is no overlapping between (a) and (b) up to this point. If it would help the Tribunal we will complete the checking for our own satisfaction with regard to this particular table, and it may be that that will be sufficient to satisfy the Tribunal.

Mr. Macmillan: I am much obliged to my learned friend for intervening.

President: We have to satisfy ourselves as well; you quite understand that?

Mr. Merriman: Yes, but it might help you if you knew when it has been checked in that way.

President: So it will, no doubt.

Mr. Macmillan: Of course, if the position in which we ultimately found ourselves was that my learned friend's advisers and accountants thought we had not done any duplication as the result of their investigation, and if Mr. Hurcomb was good enough to pronounce his benediction in addition, then, if you had sworn testimony from Mr. Quirey that in point of fact there was no duplication, I cannot imagine the Court having anything much stronger than evidence uncontroverted, and statements by all the parties concerned that they are satisfied; but if you wanted more than that, we will give it.

President: I think everything points to our hearing Mr. Quirey at once.

Mr. Macmillan: Yes, I think so.

Mr. JOHN QUIREY, recalled.

Further examined by Mr. MACMILLAN.

5319. One may just bring the matter to a focus in this way: Were the claims of the Companies under Section 58 (1) (a) as originally compiled contained in Schedule D of the books R.T.2 (a) to R.T.5 (a) lodged with the Tribunal last year and under consideration last summer?—Yes.

5320. Then on the 16th February, 1925, did the Companies lodge with the Tribunal amended claims marked "R.T.2 (a) Schedule D (Amended)" and "R.T.5 (a) Schedule D (Amended)"?—Yes.

5321. May I take it that the amendments made were chiefly the result of the ascertainment of the content of paragraph (a) by the Minister of Transport and the decision come to by the Tribunal and confirmed by the Court of Appeal with regard to the capital raised and provided?—Yes.

5322. And one or two additional corrections, I think?—That is so.

5323. In opening the comparison between the figures as originally stated and as now stated—I have no doubt you listened to me—did I give them accurately?—They were correctly given.

5324. It might be quite definite if we just put it on the note in the form that you have given it to us here.—If you please.

Company.	Original Claims.	Amended Claims.	Added.	Deducted.
L. & N.E., R.T.2 (a).	£ 3,188,165	£ 2,858,682	£ —	£ 329,483
L.M. & S., R.T.3 (a).	3,959,131	4,034,891	75,760	—
G.W., R.T.4 (a).	5,763,180	5,853,316	90,136	—
Southern, R.T.5 (a).	792,050	793,725	1,675	—
	13,702,526	13,540,614	—	161,912

5325. Will you explain what the position is? There has been a nett deduction over all, has there not?—Yes, £161,912.

5326. And that is in consequence of additions to the original claim in the case of three of the Companies and a deduction in the case of the London and North Eastern?—That is so.

5327. And the nett result is to diminish the total claim by £161,912?—Yes.

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MR. JOHN QUIREY.

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5328. This nett deduction is made up, is it not, first of transfers from the original 1 (a) claim?—Yes.

5329. To the extent of £173,159 and an omission from the original claim of £9,944?—Yes.

5330. In the case of the London and North Eastern?—Yes.

5331. That was a mere slip?—Yes, the omission was the London and North Eastern item.

5332. You, therefore, have an addition in respect of transfers, and you have an addition in respect of omission from the original claim, the total additions being £183,103; then you have a deduction in respect of amalgamation adjustments, etc., of £345,015, and the nett figure accordingly is £161,912?—That is so.

5333. Will you kindly explain the amendments made? First of all, take the transfers from 1 (a) claim in consequence of the certificate of the Minister as finally given to the Court?—That involved an alteration in each of the four books, an addition in the case of the London and North Eastern of £97,381; in the case of the London, Midland and Scottish of £75,760; and in the case of the Southern a nett addition of £1,675. In the Great Western case there was a reduction of £1,637. With regard to the London and North Eastern the particulars are set out in a Schedule which might perhaps be put in; it consists of about a page and a-half of folio cap. (See Appendix.)

5334. This is to show the actual transfers that have been made, is it not?—This shows the exact amounts that have been brought into 1 (b) claim, and they were originally in 1 (a) claim.

5335. Mr. Jepson: You have simply got them in a table in your Schedule D amended?—That is so.

5336. These are the details making up those figures?—The details consist of about 20 to 30 items.

5337. Does this detailed description of work transferred from (a) to (b) show all that has been transferred from (a) to (b) in the case of the London and North Eastern?—Yes.

5338. Did the Railway Companies furnish to the traders these details?—I think it was sent on Saturday last or Friday last; I do not know which.

5339. I notice that there are a great many different items, some of them quite substantial, and some comparatively trivial, but they are all set out there?—Yes, but really the only substantial item is the steamer item of £105,000 odd and that arises from the amount included in the 1 (a) claim being an estimate, and, when the claim was finally certified, the corrected figure was ascertained and the overcharge deducted from (a) claim of course came into (b).

5340. That estimate had been passed for the 5 per cent. or 4 per cent., whatever it might be, during the time of control, but when you got out the actual figures you found there was another £105,000 which ought to rank for allowance for interest?—No; we claimed too much from the Government, and we had to suffer a reduction of £105,000, and it falls into the (b) claim to be remunerated under the (b) claim.

5341. Mr. Macmillan: I notice that in the total column of this Schedule some of these items have a credit mark against them so that there is both addition and subtraction in the total column, is not there?—Yes. There have been a few items added to the (a) claim and now credited in the (b) claim.

Mr. Jepson: I do not understand about the steamers, and I would like to get it clear, because it may be typical. As I understand Mr. Quirey he says the London and North Eastern deducted too much under (a) from the Government, and had to reduce the amount. Because they claimed too much and had to reduce it, that amount which they claimed too much comes into (b); it do not quite follow the argument.

5342. Mr. Macmillan: The point is this. Under the heading "Steamboats" I take it that you claimed for certification under (a) too large a sum originally?—Yes.

5343. £105,000 was struck off the claim put forward for certification under (a)?—Yes.

5344. It would not necessarily follow that the £105,000 should necessarily find its way in your compartment (b), would it, because it might not have been properly vouched expenditure at all? What is its justification for transfer to compartment (b)? What is its nature, and how do you justify its inclusion in (b) seeing that it has been excluded from (a)? This is not your own Company, but you probably can tell us?—The information as given to me is that the steamship capital expenditure under 1 (b) was understated by the amount over included in the 1 (a) claim.

Mr. Jepson: Then what has that to do with (a) if it was understated in the claim made upon (b), and now they are seeking to rectify it by putting in the proper amount as it should be, that being disallowed by the Government under (a)?

5345. Mr. Macmillan: I think I can bring it out in this way: tell me if I am right about this, that first of all you want to ascertain, do you not, the total amount of capital expenditure on steamboats?—Yes.

5346. And should the total amount of the capital expenditure on steamboats be in either (a) or (b)?—That is so, since the 1st January, 1913.

5347. The whole of the expenditure on steamboats which we shall find in (a) and (b) now will not, will it, exceed the total actual expenditure on steamboats in the period in question?—No, it will agree. The amount included for steamboats expenditure in (a) and (b) will agree with the Company's total expenditure on steamboats from the 1st January, 1913.

5348. Is it only a question of which of the two compartments, (a) or (b), it should be divided among?—Yes.

5349. And not what proportions it should be divided among those two compartments?—That is so.

5350. But the total expenditure has been made actually by the Company on steamboats in the prescribed period and can be shown, can it?—Yes.

Mr. Macmillan: Does that meet it, Mr. Jepson?

Mr. Jepson: I think it does. The only reason I raised the question was because, as Mr. Quirey states, it had been disallowed by the Government under (a) and had dropped into (b). One can quite understand that certain things were disallowed by the Government for various reasons, but why they should afterwards rank under (b) I could not understand.

Mr. Macmillan: I could quite conceive that some expenditure, let us say the claim for steamboats, might have been rejected by the Minister under (a) for a reason which would equally cause its rejection under (b), because, for example, it might be an inclusion of some revenue expenditure which was not capital expenditure at all, but that, I think, is not the position. The position is this, and you will check me, Mr. Quirey, that the total capital expenditure on steamboats properly so-called is agreed, but the Minister says: "You have put £105,000 too much of that total expenditure into (a) and it must therefore find its proper place in (b). It is not that it has not been expended, or that it has not been expended for capital purposes, but we have recognised only so much of it for certification under (a) and the balance is therefore qualified for admission in (b), because it is capital expenditure since the 1st January, 1913, not included in (a); therefore it is qualified for an admission to that compartment"; is that right?—Yes. I can point out the item to which it should be added in the original exhibit.

5351. That will perhaps be helpful.—At Folio 11, R.T. 2 (a), the original exhibit, under the heading "Great Western Railway," there is an item: "Steamboats, £435,107."

5352. Yes, I have it.—That is understated by the amount deleted from (a). The £105,032 is to be added to that item, making it £540,139.

5353. But you take Mr. Jepson's point? The mere fact that it has been excluded from (a) does not necessarily mean that it is qualified for admission to (b) does it?—Quite so, but I know what this over-

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expenditure was; it was in respect of work that at the 15th August, 1921, had not been completed.

5354. That gives the explanation then.

5355. *Mr. Locket*: A payment on account?—Yes.
Mr. Jepson: That is the reason why it is disallowed; that answer clears it up.

5356. *Mr. Macmillan*: Of course, you have no business to claim for certification under (a) any expenditure after the 15th August, 1921?—No.

5357. And if this was expenditure after the 15th August, 1921, claimed under (a) it was properly rejected by the Minister from (a)?—Oh, of course.

5358. But it was equally qualified for admission into (b); is that right?—That is right.

Mr. Jepson: That is quite right, because one remembers what you said in opening, that it did not follow that anything necessarily excluded from (a) by the Government would fall into (b), and one at once had these cases in mind, because under (a) the Government passed the allowances on the capital expenditure made before 1913, but in respect of works upon which that expenditure was made which did not come into operation until 1913. Of course, if in any of those cases the Government disallowed them, they could not come into (b) because it was expenditure before 1913.

Mr. Macmillan: Quite, and Mr. Quirey will tell you in a moment that some items have been rejected for that very reason.

Mr. Jepson: And, of course, in this case it was an estimate put in by the Company; the money had not all been expended, and therefore it ought to be disallowed by the Government; that is quite a different category.

5359. *Mr. Macmillan*: It is rather a different category. For the moment Mr. Quirey is concerned to show the Tribunal what items in the case of the London and North Eastern Company have been excluded from (a) in consequence of the completion of the Minister's investigation and his certificate and which have now been transferred to (b) in the case of the London and North Eastern Company?—Yes.

5360. And this Schedule, which you have now handed in and which has been for a few days in the hands of the traders, shows the particular items and brings out the figure of 97,381?—Yes.

5361. That is entitled "Total adjustments due to Ministry certificate."—That is so.

5362. Then in their case I think the Seaforth and Sefton have been dealt with in this way, and that figure of 2911,660 has merely been transferred from one column to another column?—That is so.

5363. It does not affect the total?—No.

5364. Then, further, in the case of the London and North Eastern, do you show the detail of the figure of 29,944, which was the omitted item in the London and North Eastern original claim?—That is included in the statement now handed in; it is the West Riding Railway Committee.

5365. You have explained the figure of 297,381, the London and North Eastern addition to (b) in consequence of deductions from (a)?—Yes.

5366. In the case of the London, Midland and Scottish, can you furnish us with similar explanations? Yes. That adjustment is explained on the face of R.T. 3 (a) amended.

5367. In the case of the London, Midland and Scottish, it is simply, as we know, the sum added of £75,760?—Yes, I can trace that through also, if desired. This was a sum credited in Schedule D in the original exhibit under the North London Company at folio 16, coaching vehicles credit, £77,369.

5368. I have that.—We were obliged to give up part of that credit to the Government when they were investigating our claim for interest on capital.

5369. On what ground?—On the ground that it was in the nature of a displacement. The coaching stock of the North London Railway had been replaced by electric stock provided by the London and North Western Company. It is a proper credit to the 1 (a) claim, and having already been deducted from the 1 (b) claim we now strike out that credit.

5370. And restore matters?—And restore the matter.

5371. Again, there is no question that that was capital expenditure after the 1st January, 1913?—The electric rolling stock was provided after the 1st January, 1913, and the steam stock displaced.

5372. Therefore, the credit properly falls to be made in (b) in consequence of its rejection from (a)?—It is the other way about; the (b) claim has to be increased by the amount of (a) claim diminished by that sum, that part of what is taken out of 1 (a) claim in that case.

5373. *Mr. Jepson*: The amount ranking for allowance under (a) has been reduced by that £75,000?—Yes, it is at least by that.

5374. *Mr. Macmillan*: Then in the case of the Great Western there is just £1,657 that has been deducted; we need not spend much time over that. No addition, I think has been made in the case of the Great Western?—No. That is an amount originally included in the 1 (b) claim and now transferred to 1 (a); it results in a reduction of the 1 (b) claim.

5375. But we are dealing just now, as you know, only with the transfers consequent on the Minister's certificate?—And this falls within that. A sum has been allowed in the 1 (a) claim which we do in fact include in the 1 (b) claim, and so in the amended statement we took that amount out.

5376. Then in the case of the Southern Railway, I think the additions amount to only £1,675, and of that you have prepared a statement?—That is so.

5377. That has been sent also to the traders and it is available, but we deal with very small sums there?—It is a very small sum; it consists of additions and deductions.

5378. You had better put it in for the sake of completeness. (*Document handed in; see Appendix.*) The result of that is that there is £174,816 in additions and there is £1,657 of deductions, and the net figure accordingly is £173,159?—That is so.

5379. I think the amounts transferred from or to the 1 (a) claim to or from the 1 (b) claim do not represent the whole of the alterations in the first of these, do they?—No. The net amount added to the 1 (b) claim is almost £47,000 less than the amount taken out of the (a) claim.

5380. That supports what I ventured to say in opening, that you do not find that there has been simply a wholesale transference of the rejected items from (a) to (b)?—That is so. In many cases we did not trouble to trace the amount through and bring it into (b); we might have done it if we had had time.

5381. Did you just discard some items, and do they not find a place now in either (a) or (b)?—Yes, the pre-1913 expenditure which could not be brought into the (b) amounts to £3,796.

5382. Has that been rejected altogether?—Altogether, and in addition to that we had upwards of £13,000 that we do not seek to bring into the 1 (b) claim; it would mean some research and printing of additional documents, but it is a comparatively small amount.

5383. So you have just let that go?—We have dropped it.

5384. The sum has been dropped because it was not worth the cost of further investigation and justification, although some of it might have been justified on investigation?—That is so.

5385. Other items have been discarded because they related to pre-1913?—That is so.

5386. In the result, any one take it that you have not included anything in (b) which does not truly represent capital expenditure since the 1st January, 1913, and that you have not included in (b) anything that is in (a)?—We have gone very carefully into it, and I think we can surely say that there is no duplication of charge. There is nothing included in 1 (b) that is in 1 (a) or 1 (c), and nothing pre-1913 in 1 (b).

5387. These are the two important things. You heard what Mr. Jepson said, and I think also. The

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learned President said, with regard to the Court being satisfied upon this matter, and you appreciate that they have a duty to be satisfied that that is so, apart from our satisfaction or our opponents' satisfaction?—That is so, and for that purpose I have prepared a reconciliation statement on the lines of the statement printed at page 167 of our proceedings.

5388. I suggest that it might be convenient for this Reconciliation Statement to be appended to today's proceedings, and to be printed in the same way as the previous statement on page 167 of the proceedings was printed. (See Appendix.) Now will you explain the value of your Reconciliation Statement, which is called J.Q.4 (Amended), as a check?—The alterations in the 1(a) and 1(b) claims necessitated the amendment of this page 167 Reconciliation Statement; and also it was necessary to alter a part of the statement in consequence of the changes made in the London and North Eastern figures, that is to say those in the first column. In the case of three of the companies, the London, Midland and Scottish, the Southern, and the Great Western, there is no change from the original statement down to the line "Expenditure since 1st January, 1913, comparable with claims under (a) and (b)"; but in the case of the London and North Eastern Company there has been a reduction in the amount of expenditure since the 1st of January, 1913, which is due to two causes: firstly, the addition of an item of £104,813 in connection with the Great Central account, and a reduction of the amount deducted from capital expenditure and the vesting entries which ought, in fact, to have gone in reduction of the 1(b) claim.

5389. Perhaps you might just pause there for a moment to explain that item. It is a large item. What is the justification for that adjustment?—Some of these items arose in connection with the examination of Mr. Williams on the last occasion, but the details are included as a last paragraph in the statement already put in. The last paragraph is headed "London and North Eastern," and it gives a net credit of £436,808. These amounts, amongst others, were included in what were called the "bookkeeping entries" at the last hearing, but a further investigation of the London and North Eastern adjustments of vesting showed that in fact deductions ought to be made from the 1(b) claim, and effect has now been given to that. There was a case of a steamer which was lost, which was mentioned, I think, by Mr. Williams in his last examination. There was also a question of securities of other companies held by the constituent companies of the London and North Eastern Company which at vesting were removed from the capital expenditure account into the balance-sheet and subsequently sold; they are a proper credit to the capital expenditure under 1(b), and now they are brought in.

5390. Mr. Jepson: That had not been done before?—No, it had not been done before.

Mr. Macmillan: As regards the adjustments which have been made, I think it might be convenient to call the attention of the Court to what was said in their decision on page 326 of the proceedings under Point 8.

Mr. Jepson: Are you passing from this table?

Mr. Macmillan: No, Sir; it is still on this; it is just completing the explanation of these adjustments. On page 326, near the bottom of the page, it says: "We think that the Great Western Railway Company's claim under this head"—that is the expenditure on capital account—"should be adjusted subject to verification by the elimination of the credits which they have given in respect of adjustments made in their capital account upon amalgamation. They were merely bookkeeping entries. You may remember that they had adopted a method of their own, and you thought that that account ought to be corrected."

5391. Was it found in the case of the London and North Eastern Company that there were certain ad-

justments also to be made? There were certain things which were not merely bookkeeping entries, but substantive entries, which ought to be brought in?—That is so. The adjustments are in opposite directions. In the case of the London and North Eastern Company it means a reduction of the 1(b) claim, but in the case of the Great Western Company it means an increase, because too much had been deducted out of the original claim.

5392. It was the same kind of operation that you were engaged in, in the two accounts, only that it resulted in different consequences?—Quite so.

5393. Now returning to your document J.Q.4. (Amended), which is your Reconciliation Statement, you have explained the new figures of the London and North Eastern Company. What is the result?—The result is that the "Expenditure since 1st of January, 1913, comparable with claims (a) and (b)" is now £14,137,635 instead of £14,452,428.

5394. That represents total expenditure, quite irrespective of any question arising about (a) or (b). It is simply the total capital expenditure of the companies?—Yes.

5395. Then you have to consider the application of the Statute to it, and, first of all, how much of that should go into (a). On page 167 of the former proceedings, do you show the amount for (a) as being £10,432,948?—Yes, for the London and North Eastern Company.

5396. Yes; that is right.—May I go right across the (a) claims, comparing them with the old ones?

5397. Mr. Jepson: Does that mean referring each time to "R.T. 2 Amended," or is it simply referring to your original table on page 167?—I think you may take it that is so, and that is all that it involves. You may take it that these are the correct sums, transferred to this statement. In the case of the London, Midland and Scottish Company the net 1(a) expenditure from the 1st of January, 1913, is now £10,498,796 instead of £10,641,083. In the case of the Southern Company it is now £3,420,813 instead of £3,426,048. In the case of the Great Western Company it is £5,311,333 instead of £5,313,640.

5398. Mr. Macmillan: That gives the contents of (a). That is the distribution of the amended total, first of all under head (a). Then one would expect to find the balance of the capital expenditure now under head (b), would not one?—On the face of it, yes.

5399. Does one in fact find the whole of the balance under (b)?—No; there are large sums that do not fall in. If you take the London and North Eastern Company, the balance of expenditure after deducting (a) expenditure, is £3,802,075, of which £2,858,682 has been claimed under 1(b); and the difference is £943,393.

5400. As a result, will that be capital expenditure, properly so called, of the London and North Eastern Company, which, although incurred since January 1st, 1913, will not receive recognition under either (a) or (b)?—That is so. It is not wholly entitled to recognition under (b).

5401. Yes; but I was just wondering the extent to which capital had, so to speak, been dissected with the result that it would receive no remuneration at all?—The explanation of it is underneath.

5402. What is the explanation?—It is this: that the London and North Eastern Company in the period had made contributions to the capital of "J" Joint Lines to the extent of £209,404. That is proper capital expenditure of the London and North Eastern Company; but in our claims we include, not the contributions of parent companies to "J" Joint Lines, but our respective proportions of the actual capital expenditure of the "J" Joint Lines.

5403. I see?—Therefore this falls out, and it is not entitled to recognition. The next item, "Conversion of Stocks," I think requires explanation.

5404. Yes.—In the case of the London and North Eastern, this refers to the purchase of the Scarborough, Whitby and West Riding Railway in 1913. The consideration there was the exchange of stocks of the North Eastern Company for stocks of the

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Scarborough Company. In our items Nos. 1 and 2 of the original exhibit, the net revenue of the Scarborough Company is included for standard revenue purposes, and, therefore, we cannot claim an allowance in respect of the North Eastern Company's capital expenditure in acquiring the undertaking, and so it is taken out here, the figure being £217,262. Then the next entry is in reference to some contributions—certain inter-company contributions—which are now wiped out by amalgamation, and the figure for that is £59,233.

5405. They are described as being merely book entries?—They are merely book entries, and they are wiped out. That wipes out the contributions from one company to another, and, therefore, we get to a net figure for the London and North Eastern Company, of amounts expended and not claimed, of £264,474.

5406. And it is the same with the others, reconciling in each instance?—Yes, the same procedure can be gone through, and in each case there is an amount claimable but not claimed.

5407. Mr. Jepsen: In the case of the London Midland and Scottish Company, what does the £416,621 represent? Is it something similar to the Scarborough, Whitchy and West Riding Railway?—That consists of two transactions, namely, Midland Railway Company's debenture stocks, issued in exchange for Somerset and Dorset Railway Company stocks, and Lancashire and Yorkshire Railway stocks, issued in exchange for stocks of the Southport line.

5408. In both those cases the revenue derived from those undertakings was included in the 1913 revenue of the London Midland and Scottish Company?—That is so.

5409. Mr. Macmillan: In this Reconciliation Statement have you given effect to what happened last Monday, when we agreed that the Forth Bridge Railway Company's expenditure and the rent charges should come out?—Yes, I took out of our 1 (a) claim the items which it was agreed should come out.

5410. Can you give us the operative value of that Reconciliation Statement as a check, for the purpose of showing that there is nothing in (b) now that is in (a)?—Yes, I take the amounts which have been expended by the constituent and subsidiary companies and by the amalgamated companies since the 1st of January, 1913, to the 31st December, 1923 and find the amount expended, and then compare that with the amounts included in the claims for outlay since the 1st January, 1913, then when I find that the claims are less than the amount of expenditure, that convinces me, after looking at the adjustments which have been necessary, that there is no duplication of charge.

5411. This is an arithmetical check upon it, rather than a check by taking it item by item?—Yes, that is so.

5412. To use a familiar expression, you "prove your sum" in that way?—That is so.

5413. The total claims amount to less than the total capital expenditure, and therefore you cannot have a duplication as between the two claims?—Yes, that is right.

5414. Mr. Jepsen: There would be an element as to which I am not sure that it is in this statement, namely, the expenditure prior to 1913. Is that dealt with on the second page?—Yes. I have taken out of the 1 (a) claim the amount of outlay prior to 1913 included therein.

5415. For the purpose of getting your reconciliation, of course you had to do that?—Yes.

5416. I had not noticed that before?—Yes, that is so.

5417. Mr. Macmillan: You explained to us, I think, exactly how the sums now presented to the Tribunal as being qualified for admission to (a) have been arrived at and adjusted by you, in your amended R.T. 2 (a), 3 (a), 4 (a) and 5 (a), Schedule D?—Yes.

5418. I think you have covered all the items?—I have covered all the adjustments made in Schedule D.

5419. I think we may next turn for a moment to the question of the capital, that is to say the raising of capital corresponding to that expenditure. I shall assume that we have satisfied the Court that that expenditure comprised under (b) is entitled to be comprised under (b); so that the question now comes: "What about the raising of capital in respect of it?" Have you already submitted to the Tribunal a table which is printed on page 224 of the proceedings and which was handed in by you on the 19th June last?—Yes.

5420. It shows the nett amount of capital raised or provided—that is to say "provided" in the sense now attached to that term; the statutory sense, as it has been determined—between the 1st January, 1913, and the 31st December, 1923. Does that show in all, £17,793,267?—That is so.

5421. As at page 224 of the former proceedings?—Yes.

5422. Does that amount include two items of capital provided, which the companies request should be applied to the expenditure or included in the expenditure under 55 (1) (b)?—Yes.

5423. Or rather, under the 53 (1) (b) claim?—Yes.

5424. What are those two items of capital provided?—There is the case of the Great Western Company in 1923, the acquisition of the Swansea Harbour.

5425. Yes.—The amount will be found on page 241 of the proceedings.

5426. Yes, what else?—And there is the issue to the Isle of Wight Railway Company, which is a subsidiary company of the Southern Railway Company, in 1913 and 1914.

5427. The amount being—?—£36,000.

5428. And the detail of it is on page 245?—That is so.

5429. Those two items appear separately, do they not, on page 224, under the Great Western and Great Southern Railways respectively?—That is so.

5430. I see that they are described as "Capital receipts—Stocks issued in exchange for Stocks of acquired Undertakings"?—Yes.

5431. And again, are those items in precise conformity with the decision of the Tribunal on the 31st July, 1924, which is to be found on page 326 of the proceedings, in column 1, where the Court was good enough to say: "We venture to suggest that capital provided may be intended to cover capital created and issued for exchange purposes but not 'raised' from the public, seeing that this is some of the 'capital' for which we are asked to find an allowance under Section 53 (1) (b)"; and are those the two items which you put forward as capital "provided" in the sense indicated by the Court?—Yes.

5432. As to the amount of capital required to be raised in respect of this expenditure, do the amended claims under 55 (1) (b) amount to £13,540,614, as already explained?—Yes.

5433. And then the Great Western Company has provided capital to the extent of £2,889,784 in respect of the Swansea exchange transaction?—That is so.

5434. And has the Southern Railway Company, in respect of the Isle of Wight transaction, provided £36,000?—Yes.

5435. And consequently the position will be this, that you will subtract the £2,889,784 plus the £36,000 from the £13,540,614?—Yes.

5436. And that will give you, accordingly, a figure of £10,614,830 to be raised?—Yes.

5437. The other part of it has been provided?—Yes.

5438. That is right, is it?—That is correct.

5439. That is what has to be raised?—Yes.

5440. Curiously enough it is very near—I should not say "curiously enough," but I should say "naturally enough," that is very near to the sum which the Tribunal indicated in their decision would be required, because I see on page 326 that the Court said that the amount to be raised would be approxi-

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mately between 9 million and 10 million pounds, and it just happens to be about 10½ millions?—Yes.

5441. Then I think the particulars of the capital issues by the several companies in each year are given on pages 225 to 245 of the former proceedings?—Yes; those are the details making up the amounts on page 224.

5442. Just to give everybody all the material upon this question, I might ask you this: I think the amount over-expended on capital account to the 31st December, 1923, is ascertainable from the Ministry of Transport returns for 1923, page 27?—Yes.

5443. And the total amount at the 31st December, 1923, over-expended by all the four companies was £56,086,886?—That is so.

5444. I gave a short account of the operations of the different companies with regard to the raising of capital, either made already by the London Midland and Scottish Company, or in process of being made by other companies, or as will be made by all the companies before the fixation of the charges?—Yes, including also an issue by the Great Western Company.

5445. Including also an issue by the Great Western Company of—how much?—£1,600,000 debenture stock.

5446. Will there, in consequence of these capital operations, be in existence, before the charges are finally fixed, capital of each of the companies raised or provided, equivalent in amount to the sums claimed in respect of capital expenditure since the 1st January, 1913, and not included under paragraph (a)?—Yes, that is the present intention.

5447. And will you present that capital so raised or provided, as additional capital raised or provided in respect of the capital expenditure set out in your series of tables?—That will be our application.

5448. That will be your submission?—Yes.

5449. And you will then ask that an allowance be made to remunerate adequately that capital?—Yes.

5450. I might perhaps just ask you this general question: Have you heard what I said in opening this morning with regard to the method in which the capital account of the railway company is compiled and utilised?—Yes.

5451. I could hardly hope to satisfy an accountant as to the accuracy of my statement, but may it be taken as generally accurate?—That is so.

5452. I am complimented.

Mr. Merriman: It was only in answer to a leading question.

Mr. Macmillan: That is quite true, and I do not think I can make much for myself out of that.

5453. Now will you tell us anything that you yourself wish to add upon that matter?—The cash receipts of the company consist both of revenue and capital moneys; they are all included in one common banking account, and the amounts are paid out, whether for salaries and wages, or whether for stores purchased or for contractors' works executed; and it is not possible to connect up the capital received with the capital expenditure.

5454. You do not have a ledger folio for each item or each capital work which you are carrying out, do you?—No. The amounts will be included in the capital expenditure of the company; but, of course, the company will have a subsidiary account for the purpose of ascertaining the cost of each work.

5455. That is what was brought out by Mr. Jepson; but, for instance, do the companies purchase in bulk rails, timber, wheels, and so on?—Yes, for general purposes.

5456. I suppose you cannot say, when those stores are replenished, whether particular stores are going to be used ultimately for any particular work?—No.

5457. Are they used indifferently, for any job which is in hand?—Yes, as required.

5458. A particular capital expenditure made upon rails, let us say, may result in those rails being ultimately used for additional sidings and some for other purposes?—That is so.

5459. And they are issued generally from store for a particular work?—Yes.

5460. And you could not say whether a particular rail has been paid for by a particular shareholder who has contributed to a particular issue or not?—That is so.

5461. And I suppose you cannot tell, until the material is actually issued from store, whether it is going to be applied to a capital purpose or to a revenue purpose?—No.

5462. I suppose some part of the material issued from store is applied to work which is proper charge against revenue?—The order on the stores department would specify the work for which the material was required.

5463. And it may be for a revenue purpose or it may be for a capital purpose?—Yes.

5464. And it is true, on the other hand, that you have material in your books by which you can tell what has been the capital expended upon any particular work?—Yes.

5465. That is something which you can tell; but you cannot and you could not tell from your books whether a particular £1 which was used in capital expenditure upon a particular job was the product of one particular capital issue rather than another capital issue?—No; the expenditure would be met out of the general account of the company.

5466. And does that exactly accord with the system, of accounts which is prescribed in the Railway Accounts Act of 1911, that there is a general capital account?—Yes.

5467. Are the moneys of the company used generally for all the purposes of the company, whether capital or revenue?—Yes.

5468. And they are all lodged in one common banking account, whether they consist of cash receipts from passenger traffic or freight traffic, or from issues of capital?—That is right.

5469. Out of the banking account do you pay accounts for wages, for materials supplied, and for works executed by contractors, and so on?—Yes.

5470. And I suppose in the ordinary operation of the company, the Board will have to consider from time to time whether it is proper to go for fresh capital powers in order to replenish the exchequer?—Yes.

5471. I suppose, again, that they will, in the interests of all concerned, await the most favourable moment for going for capital?—Yes, that is in the interests of good finance.

5472. And when the exchequer is replenished by the creation and issue of new stock, the produce of the issue is carried to the credit of capital account, is it not?—That is so.

5473. And it is then available for the purposes of the undertaking?—It being carried to the credit of capital account, it reduces the over-expenditure on capital account and the money, being in the bank, is available for all the purposes of the company.

5474. I follow exactly. At this particular moment, would the companies have been seeking to raise capital from the public had it not been for the necessity of protecting their 1913 shareholders by raising capital to qualify under paragraph (b)?—I can speak particularly regarding my own company, and I believe it applies to all the companies.

5475. Yes. In the case of your own company, has the going to the public and the raising of capital at this time been dictated by the necessity for showing additional capital to qualify under paragraph (b), and so to protect the 1913 shareholders?—That has been the reason for the issue of the 7½ million pounds; I can say that, of course, from my own inside knowledge as well as from what the Chairman said at the Annual Meeting.

5476. But what I think you can also tell us is this: Had it not been necessary owing to the exigencies of the Statute to raise additional capital to represent this expenditure at the moment, you would probably not have been in the market?—I do not think we would, because at the end of 1924 we had cash and

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[Continued.]

securities readily realisable, which, after paying our final dividend, would have left us with upwards of 35 million pounds in hand.

5477. Therefore, the domestic position of the London, Midland and Scottish Company would not have required you in the ordinary course to go into the market for additional capital at this time?—That is so.

5478. But if additional capital were not available to represent the capital expenditure under paragraph (b), the consequence would have been, would it not, that you would have had that capital expenditure, but you would not have had any protection for your 1913 shareholders?—No; we would have been liable for the dividend on the stocks issued, and, the Standard Revenue not including any allowance in respect of it, we would have had a larger body of shareholders amongst whom to divide the 1913 revenue.

5479. And, therefore, you had to get the allowance which increased the 1913 dividend fund; and you had to get that through the medium of paragraph (b), had you not?—Yes.

5480. Mr. Jepson: Is that quite the fact? I do not know whether I misunderstood you, Mr. Quirey, or whether I misunderstood the question. I understood Mr. Macmillan to suggest to you that you had to raise this capital in order to protect the 1913 shareholders. Surely, if this money had been expended out of your internal resources and you had not gone to the public for it, the 1913 shareholders would have benefited by the increased revenue which was derived from this capital expenditure; it would have been a benefit to the 1913 shareholders. The point put in the previous part of the case was that, by benefiting the 1913 shareholders by giving them the results of this capital expenditure from your internal resources, you were hitting the traders, because you were compelling them to raise a larger amount in rates to meet that?—I think we required to go to the public and to make an issue of stock, in order to protect ourselves.

5481. To protect the company, I agree, under the language of the Statute?—Yes, because our internal resources, sooner or later, would become depleted.

5482. Yes, but, as a matter of fact, if you had not gone into the market now to raise additional capital, the 1913 shareholders would have benefited to the extent of the additional revenue derived from the capital expenditure which had been met by capital raised or provided?—Yes; and they would have also suffered the loss of general interest, because their money had been taken for these works.

5483. I quite agree, yes.—And later on, when the internal resources became depleted, and when it was necessary to issue capital to make up the cash balances, then it would have been too late to have applied for an allowance in respect of that expenditure under (b).

5484. Yes; follow.

Mr. Macmillan: That is the point; and perhaps the last statement is the most expressive.

President: We need not fight the battle over again.

5485. Mr. Jepson: I just want to ask you this: Of course, you will satisfy the section of the Act if you raise sufficient capital to meet your claims under (b) and future expenditure from now up to the appointed day, and that will still leave you, will it not, a very large amount of capital expenditure which has been met out of the internal resources of the railway companies, and for which there is no obligation upon you to raise capital at once?—That is so. There is the amount over-expended on the 31st December, 1912.

5486. Mr. Macmillan: That has all reflected itself already in the previous part of the investigation; it comes under subsection (1), and it has done duty, so to speak, there?—The 1913 receipts reflect the over-expenditure on capital account on the 31st December, 1912.

Mr. Locket: They got the benefit of that expenditure, yes; and again they suffered a loss in general interest by the money having been expended.

5487. Mr. Macmillan: I notice that at the foot of your tables you claim an allowance of 5 per cent. as being adequate remuneration for the capital raised or provided?—In the case of the London Midland and Scottish Company, yes. We raised 5 per cent. preference stock at par.

5488. The basis upon which you are going, I think, is this: "What does it cost to get the money?"; and you ask accordingly for an allowance by way of adequate remuneration, which is conditioned by that cost?—Yes, that is what we have done in this case. We have not taken any account of the consequential damage to the junior stocks by putting a large sum in front of them.

5489. Mr. Macmillan: There was some question which was discussed with Sir William Plender as to the adjustment of the different classes of stock holders, and whether it should come from one class or from another. What Mr. Quirey says in the case of the London Midland and Scottish Company, as I understand it, is this, that it does take what it actually cost to raise the stocks which were actually raised. (To the witness.): Is that right, Mr. Quirey? That is so.

5490. What about the other companies in their notes?

President: They repeat the words of the Statute.

5491. Mr. Macmillan: The London and North Eastern Company is not specific, I think.—They have not formulated an amount.

5492. What about the Great Western Company and the Southern Company?—The Great Western Company have claimed, in respect of the 5 per cent. Debenture Stock issued by them and the 5 per cent. Preference Stock provided, an allowance of 5 per cent. The Southern Railway Company have claimed an allowance not specified.

5493. There is a paragraph, is there not, in the decisions of the Court on page 325, in the last paragraph of the second column, which is relevant to the matter which we are now considering. It says this: "In the first place, it is possible to determine with greater accuracy the amount of an allowance necessary adequately to remunerate 'Capital raised or provided,' than the amount of an allowance necessary to do the same thing for an uncapitalised fund. In the former case the inquiry is *ex post facto*; in the latter a decision must be in the nature of a prophecy. It would be a misfortune if, after the allowance had been fixed by the Tribunal, the Company capitalised the expenditure in question on a basis of interest higher or lower than the allowance given, and so proved that the allowance given was either unnecessary or inadequate." By actually raising the capital, you enabled the inquiry to be as is suggested here, an *ex post facto* inquiry (that is to say, an inquiry upon ascertained facts) rather than a speculative inquiry?—Yes, it is the actual stock issued.

5494. Mr. Jepson: Except for those modifications where it is specially put at 5 per cent., I suppose that the claim for 6 per cent. as shown in your original document "R.T. 2a" stands?—At present it stands.

Mr. Macmillan: I think I may say that the original claim for 6 per cent. on the capital expenditure does not stand, because that offended in exactly the same way that was pointed out in the Judgment, that it was a speculative matter. Before the day for fixing the charge arrives, you will know the facts with regard to each issue of capital which has been raised or provided to meet expenditure, and therefore you will have the means of fixing what it is; it will be a precise and actual calculation instead of a speculative one.

Therefore, pray do not take it that we claim the 6 per cent. as originally put forward for this expenditure. It will vary with regard to the condition of the market; some capital will still have to be raised in respect of this capital expenditure, and we cannot say just now what it will cost; but we shall know before we present to you the final figures, and therefore you will be able to dispose of it in a more satisfactory way and in conformity with

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your own view. It might be necessary to consider that element which Sir William Plender alluded to, that by issuing stock of one character you may be injuring stock of another character; there might be that aspect of it, but that we might leave over for the present, I think.

Now, I think with Mr. Quirey's assistance I have given you all the explanations which are necessary to enable you to appreciate the position which we have to present to you under paragraph (b). I

(Adjourned for a short time.)

Mr. Merriman: Before I put to Mr. Quirey the few questions that I want to put to him, may I just make this suggestion: I could, of course, administer to Mr. Quirey a cross-examination intended to elucidate all the points that we desire to put before you upon the matters which arise upon this sub-section; but I personally think that to do so would be a great waste of time, because it would amount to doing it twice over. Mr. Quirey is perpetually under examination, and if there is anything which I submit to you after getting answers to the one or two questions that I want to put to him about the points on which we desire guidance from the Tribunal, he can, of course, be examined again by way of re-examination or by way of further questions being put to him. I suggest that it is quite a waste of time and quite unnecessary, so long as the point will not be taken against me on the other

would therefore revert to my original suggestion that what would be most satisfactory to us all would be if we had your directions as to the proper method of compilation of the claim under paragraph (b), in the light of the points which I have put before you to-day, and the tables which have been presented, subject to any criticisms which my learned friends may now have to make either upon the tables or upon my arguments.

side that I have not put to Mr. Quirey this, that or the other point in the submissions that I make to you, for me to enter upon a long cross-examination. But may I merely indicate the points that I want to make to you?

President: We must leave it to you, Mr. Merriman, to take whatever course you think best. Mr. Quirey must have an opportunity of answering any points that you may make, if you do not put them to him.

Mr. Merriman: It was to my learned friend that I was appealing, that he should not take that point against me.

Mr. Macmillan: So far as we are concerned, you may rely upon it that we are not conducting these proceedings on those strict lines.

Mr. Merriman: I quite appreciate that, and I am much obliged.

Cross-examined by Mr. MERRIMAN.

5495. There are only one or two points that I want to put to you at the moment. I do not propose to ask you what other railway companies have done in the way of raising capital; but with regard to the London Midland and Scottish Company, have you got the prospectus which they issued to the public?—Yes.

5496. May I see it?—The stock was offered to our own shareholders, and the document is an application form to be used by the shareholders.

5497. It was only offered to your own shareholders, was it?—Yes.

5498. I see?—There was no public issue in the sense that it was put on the market.

5499. I am obliged to you; I did not know that. Very well.

5500. Mr. Locket: And the same thing was done with regard to the London and North Eastern Company, was it not?—Yes.

5501. Mr. Merriman: The London and North Eastern Company was the same?—Yes, the London and North Eastern Company's issue was to the shareholders of the company.

5502. Have you by any chance got the Great Western Company's prospectus?—No.

Mr. Macmillan: There was not one; the issue was placed on the market without a prospectus.

Mr. Merriman: I am much obliged. I have got the Southern Railway prospectus.

5503. The other point that I want to put to you is this: In the original claim the Swansea Harbour purchase totals £2,618,406?—That is so. The discrepancy between that and the amount of stock issued has already been explained, namely, that there were cash payments in addition to the exchange of stock.

5504. Yes; but it does come to this, does it not, that although it is not so shown and stated in the amended claim, the amount which it is alleged was provided in respect of the Swansea Harbour purchase is this amount of £2,889,784 Preference Stock?—Yes, being part of the total outlay.

5505. Probably you can tell me this offhand: Is the cash payment in respect of the Swansea Harbour purchase shown in your accounts?—I do not know that part.

5506. Can you tell me what the cash payments were in respect of?—The cash payments? I cannot tell you that.

Mr. Macmillan: Perhaps I may assist my learned friend and also Mr. Quirey by saying this: If you look at the Great Western Railway (Swansea Harbour Vesting) Act of 1923, Section 5, you will see that it provides that "subject to the provisions of this Act the company shall forthwith after the date of vesting as the consideration for the said transfer," do certain things; and under letter (c) they shall "issue to every person who on the date of vesting shall appear in the books of the Trustees as the holder of Swansea Harbour 4 per cent. Stock or Swansea Harbour 4 per cent. (c) Stock in lieu of and in exchange for the stock so held by him an amount of 5 per cent. Consolidated Preference Stock of the company."

Mr. Merriman: That is the issue of the stock?

Mr. Macmillan: Yes.

Mr. Merriman: I was asking about the cash payments.

Mr. Macmillan: The mortgages are dealt with under sub-paragraph (a), where it says that they shall "repay to every person who at the date of vesting is the holder of mortgages granted by the Trustees (in exchange for and on the surrender to the company of the mortgage or mortgages so held by him) the principal moneys secured thereby so far as still outstanding and unpaid on the date of vesting."

Mr. Merriman: Is that what you say is the cash payment, the repayment of mortgagee?—Partly that, I understand.

Mr. Macmillan: Then in sub-paragraph (b) there is a reference to a sum of £63,000 odd to be paid to Mr. Roger Beck. It is all done under statutory provisions.

Witness: Yes, that is right.

Cross-examined by Mr. CHIFFS.

5507. May I ask you one question about steamboats? You will remember that when you were giving evidence on the previous occasion I asked you some questions about the sum of £2,500,000 which was received from the Government by the various

railway companies in regard to steamboats which had been purchased or lost during the war period?—Yes.

5508. And you told me that that had been put into some special fund, out of which, in the future, steamboats would probably be purchased?—Yes, well—

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5509. Do you remember the passage, or would you like me to give you a reference to it?—No, I remember it very well. I can answer with regard to my own Company, the London Midland and Scottish Company. We had two ships, one of which was sold to the Government and one of which was lost on Government service, for which we received compensation.

5510. Yes?—The amounts were credited to the Depreciation Fund, and they remained there; but in the year 1924, the vessels have been written out of the capital account, and they will form a credit in the 58 (1) (b) claim to be lodged in the future.

5511. As far as I can understand from going through these figures, the credits under the heading of "Steamboats" for all the railway companies, only come to £700,000, roughly speaking. Now what I want you to tell me, if you will, is this: What has happened to the rest of the 2½ million pounds? On your system, that might account for £700,000 of it, but in addition to that there is £1,800,000 which is unaccounted for?—I would have to trace those up, I cannot say off-hand what has happened to it. I should have to get the information from the several companies, but I know that this has happened: Some ships have been replaced out of the compensation money paid, and others have been written out of the capital account, not yet replaced.

5512. But in so far as the £1,800,000, or the 2½ million pounds, as the case may be, has been used to replace steamships, or in so far as it will be used in the future to replace steamships, that ought to appear as a credit on the capital account?—If the ships are replaced out of that money, it would not appear in the capital account at all.

5513. Will not the ships appear as a capital asset at all?—In the statistical return, yes; but if the original ship for which the company received compensation has not been written out of the capital account, then the new vessel will be built out of the renewal fund.

5514. I quite appreciate that?—I have not got particulars of the 2½ million pounds, and I should require to have those particulars and to trace the matter right through.

5515. Is it not necessary to have particulars of that 2½ million pounds before you can ascertain whether the proper sum from it has been credited to the capital account under Section 58 (1) (b)?—No, I do not think so. The claim under Section 58 (1) (b) is compiled from the books of the company.

5516. Yes?—If the ships have been written out of capital account and charged against the compensation fund, a credit will appear in the 58 (1) (b) claim. If a ship has been replaced in the meantime, it will not be in 58 (1) (b) at all.

5517. It will neither appear on the debit side nor the credit side?—No.

5518. I see; but must you not ascertain the amount of that compensation fund which has been expended? Has it all been expended?—I say again that I do not know; but it can be traced, possibly. I should have to get information from the Ministry of Transport as to the compilation of the 2½ million pounds. I do not know about it.

5519. Supposing for a moment that it has not been all expended, but that there is one million pounds still in hand amongst the railway companies on this account—do you follow?—Yes.

5520. Would it not then be a proper thing to write that one million pounds off 58 (1) (b) as a credit?—No, it is not a credit to capital at all. It is a compensation for boats lost.

5521. But some of them were purchases, were they not? You told us that?—Yes.

5522. Supposing a company disposes of a ship and it is purchased by the Government or someone else, does that appear as a credit under 58 (1) (b)?—In the case of which I have knowledge it will appear in 1924.

5523. It will appear under 58 (1) (b) as a credit?—Yes, certainly.

5524. Ought not that to apply in the case of all the ships which are either purchased, or the price for which is paid as a result of loss?—If the ships do not exist, I say that it is right they should be written out of capital account.

5525. And if there is still some money unexpended out of that sum, presumably the ships do not exist?—I do not know that it necessarily follows.

5526. I said "presumably"?—That is so. I think that is right.

5527. So that so far as there is any unexpended balance of the 2½ million pounds, that should be credited to 58 (1) (b)?—In so far as there is any sum in capital account.

5528. At the date of 1913, of course?—At the date when the ship was lost.

5529. Would it not be more accurate to say that it should be on the 1st January, 1913?—The transaction in the capital account would take place when the compensation was paid.

5530. I see. Now with regard to the item of credits for the sales of shares, I understand that that has now been included in the figure of £189,000?—That is the London and North Eastern Company case.

5531. In the London and North Eastern Company's case I mean?—Yes.

5532. Was that the only case in which there were any such sales?—I think it is the only case of sales where the amounts were first charged in the capital accounts as expenditure.

5533. Are you certain of that?—No, I am not certain of it.

5534. That is a thing which requires to be ascertained?—Yes.

5535. Perhaps you could let us know that at some time or another?—I do not think there is anything in it. The sales generally were out of balance-sheet transactions; but it can be looked into.

5536. There is only this in it, that so far it has caused a correction of £189,000?—That was really explained by Mr. Williams when he was under examination before, that the London and North Eastern Company had transferred capital expenditure of the constituent companies into the balance sheet and afterwards disposed of the assets.

5537. Quite so.—Of course, those amounts are properly deductible from capital expenditure.

5538. It was just one of those things which had been overlooked, and I only want to be certain that it has not been overlooked with regard to any of the other companies?—So far as I am concerned, it has not been overlooked by my company.

5539. Just one more point, with regard to the cases where the companies have issued a loan or subscribed to other companies. Let me take the instance of the subscription by the Midland Company of a quarter of a million pounds to the Hull and Barnsley Company?—Yes.

5540. Does that now appear as capital stock of their own in the amalgamated company?—I do not know whether you have a copy of the London, Midland and Scottish Company's accounts for 1924, but on page 6 of those accounts, in account No. 4 (a) you will find a subscription to the London and North Eastern of £250,000, being a loan authorised by the Midland Railway Act of 1910.

5541. I see; that is the money which was lent to the Hull and Barnsley Company originally?—That is so.

5542. And in respect of that there is a receipt at 4 per cent., is there not?—No; I think it is something over 3 per cent.

5543. Three and seven-eighths per cent.?—Yes.

5544. That will come as a credit and a debit; it will be on both sides. It will have to be paid, and it will also be received by the amalgamated company?—It is paid by the London and North Eastern amalgamated company, and it is received by the London, Midland and Scottish amalgamated company.

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[Continued.]

5545. I am obliged to you. I was thinking that it was the same group?—No, it is not.

5546. You are quite right. Therefore, so far as that loan is concerned, it has already been rewarded to the extent of $3\frac{1}{2}$ per cent.—The revenue of the London, Midland and Scottish Company is enlarged by that, but this standard revenue of the London, Midland and Scottish Company does not include anything in respect of it.

5547. The capital is already rewarded to the extent of $3\frac{1}{2}$ per cent.—There is a return of $3\frac{1}{2}$ per cent. upon it, yes; but—

(The Witness withdrew.)

Mr. Merriman: If I may, I will just indicate the points upon which we hope that before any further investigation the Tribunal will give us guidance. First of all, I agree that one of those points is the one which has been indicated by my learned friend Mr. Macmillan, namely, the question of whether it can be said of any particular capital that it has been raised in respect of this previous expenditure. The other point, which is a matter upon which undoubtedly the burden is upon us, is with regard to the enhancement.

Let me just take the first point first, namely, the one that we have already been discussing. The point upon which we lay stress is this, that the statute says that the capital must have been raised in respect of the capital expenditure indicated, and that it is not enough for the companies to be able to come here and say, or for one of the companies to be able to come here and say, that it has now been allocated to that particular expenditure. There is all the difference in the world between raising capital for a particular purpose at the time when it is raised, and afterwards making a bookkeeping entry allocating any particular capital which may have been raised, to the one thing which if left unremunerated, and in respect of which they are seeking remuneration.

It may be that there is a considerable difference between one company and another in this respect, and I say at once (speaking off-hand, on the information that has been put before us this morning), that it looks very much as though the London and North Eastern Railway Company, for example, had, at any rate, come near to fulfilling the obligations laid down by the Court of Appeal. I should like just to call attention to the way in which, as it seems to us, upon the information which has now been put before us, that the other companies do not fulfil those obligations.

May I just say this too, before dealing specifically with the cases. There would, I think, if we were starting this inquiry now, be a good deal to be said for the proposition that really it is a contradiction in terms to talk about the amalgamated companies raising capital in respect of the capital expenditure of the constituent or subsidiary companies; but I do not propose to enlarge upon the point, because I think it is too late to do so, and I think that the whole discussion here, and at any rate in the Court of Appeal, went upon the assumption that it is open to the amalgamated companies now to put the matter right by raising capital specifically in respect of expenditure incurred by constituent or subsidiary companies.

Then there is another point also which I think is worth while bearing in mind, and it is this, that there is a good deal to be said—although I am not going the whole length of saying it, as you will see—for this proposition, that where capital is simply raised generally in the way which has been indicated by my learned friend, Mr. Macmillan, and where it simply forms part of a reservoir of capital, so to speak, there ought to be some sort of appropriation in the order in which the expenditure takes place, and not an *ex post facto* and an arbitrary allocation out of that reservoir to any particular sort of expenditure. I am not going the whole length, and I am

5548. I only wanted to be quite certain about it?—That is so.

5549. And that applies, of course, to other similar cases?—Yes; all the contributions to other companies have a return upon them.

5550. Mr. Macmillan: It is "Other Sources of Revenue"?—It will come in as "Other Sources of Revenue" in the future computations.

5551. Mr. Cripps: And the London Electric Company item would be the same?—Yes.

5552. That is the £800,000, I think?—That is right.

Mr. Macmillan: I have no questions to ask in re-examination.

not going to attempt to go the whole length, of saying that companies are obliged to replace the whole of the over-spending on capital account before 1913, before they begin counting capital raised at all. I do not suggest that, but I do suggest that it may be necessary to take account of that consideration in deciding whether the companies, as for example between the (a) and (b) claims, are entitled arbitrarily to pull certain particular expenditure out of the reservoir and say, "We allocate that wholly to (b), and it really was not raised in respect of (a) at all." I will give you one illustration of that in a moment, to show you what I mean.

Now, the Great Western Railway Company are claiming £5,553,000. Upon the claim as it appeared I confess that I did not understand—I do not know whether the Tribunal did, on reading the amended claim—that that £2,859,000 which appeared as preference stock raised, was really the preference stock with reference to the Swansea Harbour. Those instructing me did not appreciate that, and, as has been pointed out, that of course ought, upon the decision of the Court of Appeal, to be shown as capital provided. But the whole of the Swansea Harbour transaction is a case of the provision of capital, and not the raising of capital; and if you deduct the figures in the main claim in respect of the Swansea Harbour transaction, you get left a sum of £2,234,000 odd with reference to all other items which they say are capital expenditure.

Now, the preference stock which has been raised, that is to say, the £2,859,000 odd of preference stock, is wholly referable to this Swansea Harbour transaction, and there is no need to discuss that any further, because I admit that that comes within the decision of the Court of Appeal, and that it is capital provided, and that it falls to be remunerated.

The result then is this, that debenture stock has been issued amounting to £1,600,000 in respect of this balance of expenditure of £2,234,000 odd; and the comment I want to make upon it is this: In my submission it is quite arbitrary to say that that debenture stock has in fact been raised in respect of that particular balance of capital expenditure.

In fact, when you look at the resolutions which have been put before us this morning, what happened appears to have been this: I am reading from an extract from the minutes of the meeting of the Board of Directors held on the 10th October, 1924, which says: "It was stated that at the meeting of the Finance Committee yesterday a discussion took place as to the course to be adopted for providing the cash which will be required in the early months of next year for dividend purpose and for meeting the exceptional payments to be made in respect of Income Tax, and that the Committee were of opinion that it would be desirable in this connection to consider the question of issuing capital in respect of expenditure on Capital Account incurred since the 1st January, 1913, and not included in the expenditure referred to in paragraph (a) of Section 35, subsection (1) of the Railways Act, 1921. They were of opinion that in the circumstances the adoption of such a course would be desirable, and that capital should be raised by the issue of an amount of 5 per cent. debenture stock. After consideration of the

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position the Board determined that the course recommended by the Committee be adopted, and agreed that steps should be taken accordingly"; and the resolution was: "That in pursuance of the authority conferred upon the directors by the proprietors there be created and issued £1,600,000 5 per cent. debenture stock of the Company, which will rank *pari passu* with the existing 5 per cent. debenture stock of the Company."

You have there got the raising of this particular capital promoted by the exigencies of finding money for dividends and unexpected exceptional payments for Income Tax which were due in the early part of next year; and I suggest that it is fallacious to talk about that as being a raising of capital. Although I agree that it is put in that way, to talk about that as being a raising of capital in respect of that capital expenditure which had already been incurred, is fallacious.

So much for the Great Western Railway Company. I do not want to elaborate that. Of course, in the figures of the Great Western Railway Company there are matters which I wish to challenge on the other point, namely, the question of enhancement; but I will postpone that for a moment.

Now let me deal with the Southern Railway Company. The Southern Railway Company's claim, which is not a large one altogether, has been corrected to £798,000, and we are told with regard to the Southern Railway Company that the company has raised additional capital by the issue of £1,020,100 of 5 per cent. redeemable preference stock in respect of expenditure on capital account incurred since the 1st January, 1913, and not included—and so forth. Now, the actual fact about it appears to be this, that their prospectus was issued on the 3rd November, the subscription list was to open on the 5th November, and it was to be closed on the 7th November. They asked for £2,000,000 5 per cent. redeemable preference stock, and in the prospectus they said: "The net proceeds of this issue will be applied first in redeeming the existing £1,000,000 5 per cent. redeemable preference stock 1924, and secondly in providing for the general purposes of the company's undertaking."

Now I suppose that one may fairly infer that the £1,020,000 odd which they say that they have raised for this particular capital expenditure which they are claiming, is the difference between the £979,900 which presumably was necessary to redeem the £1,000,000 of 5 per cent. redeemable preference stock and the amount of the issue; and they allocated that *ex post facto*, look, stock and barrel, to this particular expenditure. They have raised it for the general purposes of the company's undertaking.

It may be said that it is one of the general purposes of the company's undertaking to replace free reserves which have already been used in the over-spending of the capital account. Be it so; let it be supposed for the moment that that can be done. And that that is what was done in fact appears from a resolution of the 11th March, 1925, after the preference stock had been issued. I ought just to have completed the story by telling you about this. There was a resolution from the Minutes of the Finance and Rating Committee that of the additional capital money of £1,900,000 raised by the creation and issue of £2,000,000 5 per cent. redeemable preference stock, the sum of £757,725 be applied in replacing the moneys not being the proceeds of capital created and issued, taken from the general balances of the company, and expenditure incurred since the 1st January, 1913, and so on, following the words of the section.

So that they saying in their claim that they have raised this money specially for this purpose. They did in fact raise it for one specific purpose, and so much of it as was not for that specific purpose—namely, the redemption of stock which was then redeemable—was to be applied for the general purposes of the company. Then after raising it they pass a resolution and say, not that the whole of it,

not the whole £1,020,100, but £757,000 odd of it shall be applied for this particular purpose.

I submit with confidence that that is not a raising of capital in respect of that previous capital expenditure, but it is an allocation of it after it has been raised, to that particular purpose; and that is not the same thing. My friend would have it the same thing, but in my submission it is not the same thing.

President: What in your opinion would be the proper method to adopt.

Mr. Merriman: I think the London and North Eastern Railway Company have done the right thing. I think that the London and North Eastern Railway Company have definitely done this, and I want to contrast that with what has been done in other cases. I will call attention to that in a moment.

May I just finish with regard to the Southern Railway Company, because that just raises the point that I indicated a moment or two ago. That capital, or so much of it as was not necessary for the purpose of redeeming the preference stock, was raised generally for the purposes of the company, as was stated, and it was no more arbitrarily to be allocated to so much free reserves as were used to finance (b) expenditure, than it is to be arbitrarily excluded from being used, or from being supposed to have been used, for (a) expenditure.

What I submit is this: I agree that it is not a very big matter with regard to the Southern Railway Company as it happens; but if the companies are to be in a position to say, "We can, *ex post facto*, say that the financing of (b) expenditure was the allocation of capital to replacing free reserves used for (b) expenditure as a general purpose of the company," in other words, that means that they are simply entitled to put their hands into the reservoir of capital and to pull out so much of it, and pay it back into those particular free reserves. That ought not to be allowed to be done without some sort of proportion being taken as to the amount which is claimed under (b). They ought not to be allowed to say, "Out of the general reservoir of capital that we have got we propose to allocate what we now raise—although we have not raised it for that purpose—simply to (b), and now choose to say was withdrawn from free reserves wholly to finance (b) expenditure," without having some regard to the similar withdrawals for the purpose of financing (a) expenditure. I suggest that some rough and ready calculation ought to be taken, where there is a specific raising of capital for the purpose, by which it can be laid down that the company cannot arbitrarily appropriate capital to (b) expenditure without at the same time being deemed to have appropriated some of the capital which they have raised, to (a) expenditure.

No doubt it would have to be done in a rough-and-ready, rule-of-thumb way; but what the traders object to is that they should do it simply by saying, *ex post facto*, "We choose, without having specifically gone to the public to raise this capital for this particular purpose, to say (simply because it will pay us to do so) that we are to be deemed to have raised the whole of this capital in respect of (b) expenditure." We submit that they ought not to be allowed to say that, without, at any rate, taking into account the fact that free reserves were not used wholly for that purpose, but were used indiscriminately for other purposes; and we say that a rough proportion ought to be drawn between the two.

Mr. Locket: I suppose you have not overlooked the difference in the wording between sub-paragraphs (a) and (b). Sub-paragraph (a) refers to "a sum equal to 5 per cent. on capital expenditure"; sub-paragraph (b), as was pointed out before, speaks of "Such allowance as may be necessary to remunerate adequately any additional capital which may have been raised or provided."

Mr. Merriman: I quite agree with that, but the point that I am driving at is this, that with regard to (b) you have got to say that the capital has been raised in respect of the capital expenditure.

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Mr. Locket: Yes.

Mr. Merriman: There has to be the capital expenditure referred to, but with regard to (b) you have to say that it has been raised in respect of that capital expenditure.

In fact, what happened was they did not raise any capital at all in respect of it in the first instance, as is common ground; they took it out of free reserves, and they claim that it was capital raised and provided. My point is this, that up to the time of the hearing by this Tribunal and the hearing in the Court of Appeal, they were maintaining the position firmly that in fact they had not done anything but withdraw indiscriminately from free reserves, or whatever source might be available, money for the purpose of financing the capital account. So far as capital expenditure is concerned, they did so; they did it indiscriminately with regard to (a) or (b). Some of it fell to be remunerated under (a), and they said that the rest of it fell to be remunerated under (b), although they had not done what we now know is meant by "raising capital."

I am not talking for the moment of specific issues of capital for this particular purpose; I am going to contrast that in a moment with what I am now saying, taking the North Eastern Railway Company for example. But where they have, as in the case of the Southern Railway, now sought to say: "We have subsequently raised some capital, and out of that, although we only specifically appropriated part of it"—namely, the part appropriated to redeeming existing preference stock, the rest of it being applicable to the general purposes of the company—"we now propose, having raised that capital, to say that we raised part of the capital to replace those free reserves that were used for financing B expenditure."

President: I do not follow why they should not say that. Why could they not say that? Suppose they had other expenses to serve by the raising of capital than the paying off of these redeemable shares; and suppose they had said: "We have also other small capital commitments, and we have on the top of that this obligation (as we look at it) to find the capital for this," why should not they, in the first instance, raise the total sum that they want because of those three requirements?

Mr. Merriman: Certainly they could do that.

President: Then so far they are all right.

Mr. Merriman: Yes, I think so.

President: Very well. Then they say: "With regard to the money that we are going to apply to redeeming other shares or carrying out our obligations, that is one of the general purposes of the undertaking. Let us raise that and the other amounts that we want under that head." Very well. When they get that for general purposes, they can pass a resolution applying part of it to a specific purpose. What is wrong about that?

Mr. Merriman: I do not say that there is anything wrong about it, but I say that unless when they raise capital they raise it for that purpose—

President: Suppose they had that purpose before them when they raised the £2,000,000; suppose that is one of the items that made up the £2,000,000, then it would be a purpose which was before them.

Mr. Merriman: It is to some extent a question of fact as to whether it was, or whether it was not. I agree that with regard to the North Eastern Company they quite explicitly did so; they did what I should have thought was the right thing under the circumstances, and I rather used what they did as an illustration of what I am driving at.

President: Would it make it different in kind if the Southern Railway Company had said in the first instance: "We want this £1,000,000 to redeem shares; we also want £700,000 for the meeting of our liability; and we want the balance for something else?"—Would it have put it in a different category?

Mr. Merriman: If it all comes back to this, that when they raised the capital they really did raise it

for this purpose, then I agree that it does not make any difference at all.

President: How does your argument show that they did not?

Mr. Merriman: Only in this way, that all that they say is: "We raise this for the general purposes of the company;" but the North Eastern Railway Company, on the other hand, say: "We raise this for the purpose for which we have passed a resolution," and they passed resolutions showing that they were raising it on account of this particular expenditure. With regard to that, I say that there is no question.

Put in a nutshell, my argument is this, that there is all the difference in the world between setting out to raise capital for this particular expenditure, and, having raised capital for general purposes, looking round for a purpose to which to apply it, and deciding to apply it to this particular purpose. What I say is that the Southern Railway Company have done the one thing, and the North Eastern Railway Company have done the other thing.

President: Supposing that you had to draw two certain amounts, and you said, "I will combine them in one cheque; I will go to the bank and draw £1,000, because I have two payments of £500 each to make," you would have had that object in view. Would it be substantially different?

Mr. Merriman: I agree with that. If the Tribunal is satisfied that the Southern Railway Company had this particular thing in view at the time when it raised that capital and then subsequently appropriated it, I should be inclined to agree. I think that would be the same thing in substance. But that is one thing, and seeking merely to appropriate it after the fact is another thing, it having been raised generally without any particular idea except the one specific thing which they were raising it for, namely, the preference stock; and they not having any particular idea, or, at any rate, not indicating to those who were to subscribe to it that they had any particular idea, of the purposes for which it was to be applied, and then subsequently making up their minds to appropriate it to that particular purpose.

After all, the raising of capital is the going to the public, or the going to your own shareholders and asking them for the money; and, after all, you must be taken, when you are discussing the purpose for which you raise capital, to be bound by the terms in which you ask for it.

The North Eastern Railway Company, as I say, quite definitely and particularly asked for it in this particular respect. The Southern Railway Company did not; the Southern Railway Company afterwards appropriated it to this particular respect.

President: Do you not think that that might vary according to the state of the Company? One company might say: "I think we ought to show some fairly good reason to our shareholders for raising the money, because this is not a particularly good time at which to do it; and therefore we will say that we have to perform our obligations." Another company might have acted at a different time, and, not feeling the same stress, they might say: "That is good enough; let us say that it is for the general purposes of the undertaking. The shareholders will give us credit for not losing our heads and applying it improperly." I should have thought that there might have been that distinction.

Mr. Merriman: It may be that that is the explanation, but at any rate I am only concerned to take the point.

President: Quite so.

Mr. Merriman: I am prepared to admit, and I want to make it quite clear that I am admitting that where you have got—subject to the other considerations that I am going to put—a company definitely going to the public for a particular purpose to raise money, *prima facie* I am prepared to admit—subject to the criticisms about capital expenditure and enhancement, and so forth—that they have put themselves right so far as the decision of the Court

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of Appeal goes with regard to the raising of capital.

President: You say that the London and North Eastern Company have satisfied your requirements?

Mr. Merriman: I think they have.

President: And you say that the Southern Railway Company, after argument, are on the border-line still.

Mr. Merriman: Yes.

President: What do you say about the Great Western?

Mr. Merriman: I am in doubt whether the Great Western Company have.

President: And what do you say about the London Midland and Scottish Company?

Mr. Merriman: The London Midland and Scottish Company have gone very near to doing what the North Eastern Company have done.

President: I suppose you do not think that you could give them a push on to the right side?

Mr. Merriman: I do not think that I can distinguish very much between what the London Midland and Scottish Company have done and what the North Eastern Company have done, subject to this, that there is one document which has been mentioned, but which has not been produced: I understand that the Chairman, in addressing the meeting, explained that it was for this particular purpose that they were raising the money. There is nothing in the antecedent resolutions which shows expressly that it was, but if the Chairman explained it when asking for the resolution to be passed, I should not like to draw the distinction between those two things. I heard my learned friend Mr. Macmillan say that that was so, and I assume that it was so, although I have not actually seen the words in which it was explained. I know that it was so with regard to the London and North Eastern Company, and as long as that was explained to the shareholders before the resolution was put, having regard to what Mr. Quirey said, that they did not go to the public at all and did not issue a prospectus, I do not think that we can usefully draw any distinction.

Mr. Macmillan: I do not think I said that before the issue by the London Midland and Scottish Company was made the shareholders were informed.

I think that it might perhaps shorten matters if I intervene for one minute. My learned friend thinks that a certain ritual must be performed in order that capital raised may be capital raised in respect of a particular expenditure, and he indicates that the London and North Eastern Railway Company's method more closely approximates to the precise performance of the ritual, or to the ideal, than any of the others. But I think I am entitled to ask what exactly would satisfy him; because, for example, with regard to the Southern Railway Company (which is apparently at the opposite pole, according to my learned friend, in the matter of the observance of the ritual), I can give evidence that this very question of supplying capital to be the counterpart of the expenditure under (b) was under consideration at the time when it was raised. But, if I may ask my learned friend this question: "Is it a psychological question of what was in the minds of the persons who made the resolution, or is it what was the form of the document that they actually produced at the time?" and if he will help me as the criterion, then I will try to satisfy him.

Mr. Merriman: I should have thought that it was plain. It is not what is in the minds of people at all; it is what they ask the public or their shareholders to put up their money for. You cannot talk about raising capital—which really means taking the money out of the pockets of hundreds of people—in respect of a particular bargain, unless you explain to them what it is for which you are asking them to put up the money.

President: Do you think that that is so, really? I doubt it very much. Hearing it for the first time, I doubt it.

Mr. Merriman: I should have thought that it was very difficult to say that you raise money in respect of a particular object unless you explain to the

people who are to provide the money what it is that the money is to be used for.

President: You need not tell them anything about it, need you? You may have an extraordinarily good security, such as a 5 per cent. debenture, and you may issue debentures "for the general purposes of the undertaking," to use your phrase. Surely you do not say then that they could not use that money for some particular purpose, or for some purpose that they had in their mind, merely because they had not put that particular purpose into the prospectus?

Mr. Merriman: I do not say that they could not use it for that purpose. It seems to me just to hit upon what is the very point that I am trying to make. It may be a bad point, of course.

President: You mean that have not raised the capital—

Mr. Merriman: They have not raised the capital in respect of this expenditure.

President: Because they must always mention the purpose for which the capital is required, in the prospectus?

Mr. Merriman: Yes.

President: And then they would raise it for that purpose?

Mr. Merriman: After all, the point really is this: We cannot discuss this on general terms; it is not a case of what is the usual thing. This is an entirely artificial business, this idea of raising the capital, *ex post facto*, for this particular purpose, a purpose for which they never expected to have to raise capital, and for which, until a month or two ago, they were maintaining that they had not raised capital. Now that we know what is necessary, I only say this, that I ask you to hold that with regard to the raising of capital *ex post facto*, and the appropriation of it to a particular purpose and no other, in order to earn a particular remuneration for it at the expense of the traders, the Tribunal has got to be satisfied affirmatively that that particular capital was raised in respect of that particular expenditure.

President: You say that it cannot be so raised unless the particular purpose is mentioned in the prospectus?

Mr. Merriman: I do not want to tie myself down to its being mentioned in the prospectus, because I was trying to admit a few minutes ago that there was one case in which apparently they had not issued a prospectus, and I was indicating that it would be sufficient if intending subscribers were told about it. But my learned friend Mr. Macmillan now says, apparently, that that was not done, and that they were not told about it. I thought he said that they were told, and that is why I was admitting it.

As I say, it is not a question of whether a railway company at large is obliged to explain to intending shareholders that it intends to use money for a particular purpose, before it can use that money for that purpose. Of course, it is not; I am not contending that for a moment. But here it is a question of these companies qualifying for a remuneration of a purely special sort, on purely artificial grounds, for a particular raising of capital; and it is with regard to that, and that only, that I say that they have got to make it clear to those from whom they get that capital, at the time of raising the capital, that they are raising it for that particular purpose.

Let me put it in another way: Supposing that there is no obligation upon companies to explain to shareholders that they are raising money for a particular purpose, and supposing that there is no obligation on them, even if they have explained it, to be strictly bound within the limitations of the purpose that they have expressed—and I am prepared to accept that as being quite true for the purposes of an ordinary issue of capital as between a company and its shareholders—nevertheless, supposing that a company (not having heard of the decision of this Court, or thinking that the decision of this Court in July was quite certain to be upset in the Court of Appeal) had, during either the early

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summer or the autumn, as the case may be, said, "We will raise £5,000,000 of capital expressly for the purpose of building a particular harbour or dock," or whatever it might be, then if afterwards they choose by appropriate resolutions to vary the destination of that particular capital from the purpose for which it was intended, could they come here for this particular purpose and say, "After the event we have decided, having heard the decision of the Court of Appeal, that it would be better for us, instead of spending this money on that particular dock, to allocate it to other 58 (1) (b) expenditure, and we now proceed to do so"? Could they then be heard to say, "We have raised the capital in respect of that particular expenditure"? I submit not. The two things are quite different conceptions. That is all that I am arguing.

President: These particular cases are not quite like the illustration. These amounts of capital were not raised for a harbour or dock.

Mr. Merriman: I agree that when they say here that they have raised it for general purposes, they leave it indeterminate; but if my learned friend says that he can prove that in every case, although it was not specified in the prospectus, this was the particular purpose, or any particular purpose, it may be different.

Mr. Jepson: You would agree, I suppose, that this subject must have been very present to the minds of the directors and chief officers who were responsible for advising the railway companies at the time?

Mr. Merriman: Yes, I think so.

Mr. Jepson: And you do agree that the words "for the general purposes of the company" would include such an object as this?

Mr. Merriman: Yes, I agree with that too.

Mr. Jepson: And, if they had not passed that subsequent resolution allocating the particular sums for these particular purposes, you would not have raised the point?

Mr. Merriman: I do not know about that, because the point turns upon the question of whether they can show that the capital has been raised for this purpose. After all, there does remain this point, and I do want just to come back to this: Supposing they get either of those headings and say: "Yes, we have raised the capital for the purpose of replenishing free reserves." How can they really say that any capital is for replenishing that part of free reserves which has been spent on (b) expenditure and not on (a)?

Mr. Jepson: Because it appears to me that there was no obligation upon them to raise capital for replenishing reserves out of which they had expended the money under their claim (a).

Mr. Merriman: I agree, there is no obligation on them to do so.

Mr. Jepson: And no reason why they should, unless it is a convenient time to go to the market to replenish those reserves.

Mr. Merriman: But the nature of the expenditure is the same in either case, (a) or (b).

Mr. Jepson: Quite.

Mr. Merriman: You have just simply gone to the till and pulled out money and spent it either on (a) or on (b).

Mr. Jepson: Only in the one case the Tribunal has to pay 5 per cent. on capital expenditure and in the other case it is an allowance in respect of capital raised or provided for capital expenditure.

Mr. Merriman: Quite.

Mr. Jepson: There is a very great difference between the two.

Mr. Merriman: Quite. All I say is, you have got very definitely to be satisfied. It may be that the Tribunal will be satisfied, but I want to take the point, because I think it is important that it should be appreciated that there are differences in the way those companies set about it, and it cannot just be dismissed by reading the foot-note to their claim. You have got, in my submission, to be very definitely satisfied that the particular capital in respect of

which they are claiming remuneration has been raised at the time it was raised for this particular purpose and not for any other, even including (a).

President: I do not understand the doctrine of proportionate replenishment as between (a) and (b), I must say.

Mr. Merriman: In effect what is really happening is this, that by raising this capital they are really releasing free reserves. They are increasing their present and they are replacing their old free reserves. The effect in fact, as far as one can see, of raising (take the London, Midland and Scottish) £7,500,000 of capital which they raised, strange is it may seem, will be this, that at once they put back £7,500,000 into the till and can distribute it at once as dividend. The source from which they got that was their free reserves, which they were spending indiscriminately on (a) and (b) expenditure with no sort of discrimination at the time, and it does seem to me—I say it with all humility—to be an extraordinary thing that they can allege that arbitrarily to (b), though it is going back into the general pool of free reserves without any necessity for a sort of appropriation between (a) and (b) expenditure. The net result of it all is going to be that, although nominally they have raised capital, in fact they have raised free reserves.

Mr. Locket: But if they were under no necessity to raise any additional capital and they had no intention of doing so, except in order to provide for the decision of the Court of Appeal, is it not reasonable to conclude that any subsequent issue of capital that covered the amount required to satisfy that judgment was for the purpose of satisfying it. I quite agree if they had issued that £2,000,000 capital in the early part of last year, and then sought to appropriate it, it would have been quite a different matter, but this issue of capital was several months later than our decision. I think they must have had it in their mind, although the judgment of the Court of Appeal had not been given then, that they would have to provide for it, and they thought the market was a favourable one for issuing the capital.

Mr. Merriman: They may have had, of course; my friend says he can prove that they had, but after all the position is this, that at the time when both the Great Western and the London, Midland and Scottish issued their capital they were in fact, although there was the decision of this Court against them, still maintaining and continuing to maintain until the judgment of the Court of Appeal that they had not got to raise any capital at all; that they had provided the capital by financing this particular expenditure out of free reserves; and I do submit that unless in the clearest possible way at the time when they asked for this particular capital they made it clear that it was being raised for this and for no other purpose, at least there ought to be some sort of marshalling between (a) and (b) capital expenditure. I agree that you do get into a different category when, after the decision of the Court of Appeal, you get the North Eastern Railway Company passing a resolution to say: "We must have some capital to be appropriated wholly to this purpose"—or this and other purposes, but at any rate for this purpose, and they go to the public asking for it for that specific purpose.

Mr. Locket: Supposing we upheld your argument, what would be the result then? The railway company would at once pass the necessary resolutions and would raise further capital to provide for it. They have several months in which to do it, and they would do it probably at a greater cost. Would that be for the benefit of the traders? They would have to provide whatever interest we allowed upon it.

Mr. Merriman: Yes, but meantime we should, of course, get the benefit of the income on this which has been raised as a source of revenue.

Mr. Locket: If they have been technically wrong they have time in which to put themselves right.

Mr. Merriman: Yes; they have time in which to do it.

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Mr. Locket: Is it desirable to put them to the trouble and expense? Will the traders benefit in any way if they do?

Mr. Merriman: We should benefit by getting the other source of revenue in reduction of rates.

Mr. Locket: That may not be so much as they would have to pay on their new capital.

Mr. Merriman: Well, it may be, I agree in a sense, that this is a small point because it happens to relate to the two smallest claims and the two smallest issues of capital. I had not admitted it because my friend would not give me the necessary ground for admitting it, but I was prepared to admit that the largest one was covered, and I am prepared to admit that the North Eastern Railway Company is covered.

Mr. Jepson: There might be a difficulty also in a resolution allocating a certain amount of capital for this purpose, and it might be that the North Eastern will find themselves in the difficulty that they have earmarked a sum. We have already seen it has been reduced by £300,000 or £400,000 as the result of the table that is put in before us this morning. It may be that they have earmarked too much, but once having earmarked it for this purpose, they would have to pass other resolutions to get rid of that difficulty.

Mr. Merriman: Yes, that may be so. My point is, and I do not want to repeat myself, that the mere allocation of itself is not enough; the test is, was it raised in respect of it?

So much for that. The other point on which I apply with some diffidence for guidance, as I know the Tribunal have already said something about this, is the question of enhancement. I want to make, if I may, our position quite clear about this. The last thing in the world that we want to do is to waste time, or cause delay, but with regard to this question of enhancement we do feel that it is quite impossible for us to present anything useful to the Tribunal unless we have some guidance upon general lines. Let me just say this: you have well in mind the size of the original Schedule D and the enormous mass of items which, though not printed there, lies behind the figures which are printed there. With regard to many of those there is no information at all available in London; it is the case of examining on the spot up and down the country here, there, and everywhere. When we ask for this, that, or the other information, very often with regard to particular item we are told that the information is not available and that the facts with regard to it are ascertainable in Northumberland, or somewhere of that sort. It really is, in my submission, although I repeat that with regard to the non-enhancement of the burden is upon the traders or those that challenge the enhancement of the undertaking, quite impracticable for us to make investigations in the air and produce details about this, that and the other figure which we think we ought to challenge without having some guidance on principle as to whether it is going to be worth while to do it. If I may, I want to indicate quite shortly what our views generally are about non-enhancement in hopes that the Tribunal may see fit to assist us.

President: Perhaps you would include a definition according to your point of view of what enhancement is.

Mr. Merriman: At any rate, if not a definition, I may indicate that it is useless for us, for example, to produce evidence to show this, that, or the other general consideration tending to this, that, or the other conclusion if the Tribunal point out that will amount to non-enhancement, or something of that sort. If I may just indicate the points on which we lay stress I think it will be seen that it is not impossible to assist us. First of all, what we say is, that it being common ground that the undertaking, the value of which has to be enhanced, is the amalgamated undertaking—that has been laid down and everybody accepts that—we suggest that there are two categories in which a certain expenditure may

not have enhanced the value of the undertaking. With regard to one category we say there are some things which are shown here as expenditure which, subject to investigation and explanation, which is not apparent on the face of the figures themselves, quite clearly could not in any circumstances enhance the value of the amalgamated undertaking. I will deal with those in one moment. Secondly, we say there are other things which *prima facie* might be taken to enhance the value of the undertaking—such things generally do enhance the value of the undertaking—but nevertheless may not, or do not, enhance the value of the amalgamated undertaking unless the particular work is calculated to earn more than it costs to erect it.

Let me just take the latter group first, because this is a general proposition with regard to which we want assistance. It is no good, as I say, our investigating hundreds, possibly thousands, of items unless we know that it is going to be useful to do so. Supposing, for the sake of argument, to test the proposition I have just put, we are dealing with pre-amalgamation expenditure, and the question was whether one of the constituent or subsidiary companies should or should not spend £100,000 on a particular work such as the widening of a railway, or a new branch line or new railway stock. All those things are things which *prima facie* might be said to tend to enhance the value of the undertaking. At the time when this was under consideration by the constituent company this amalgamation question arose, and the question then was, was this proposed work such as would enhance the value of the new proposed undertaking, that is, the amalgamated undertaking? I am only taking this for the sake of example: Supposing this had happened at the psychological moment when finance was under discussion with regard to amalgamation, the amalgamated company would be entitled to look at it in this way: "If this work is not done we shall be entitled to take over £100,000 of free reserves which was in War Loan earning 5 per cent.; or, on the other hand, if you do this work we shall take over that work." How can it be said that that work enhances the value of the amalgamated undertaking unless it can be shown that it was calculated to earn—I do not say that it has got to earn it at once—at least the 5 per cent. which it cost them which they have had to sacrifice in order to do it. How could it be said of any work, in other words, which the amalgamated company takes over from the constituent or subsidiary company that it has enhanced the value of the amalgamated undertaking unless it has enhanced it to the extent at least of earning more than they would otherwise have got in the form of free reserves if the work had not been undertaken? That is one way of looking at it. Similarly with regard to works done by the amalgamated company itself in respect of which it did raise capital expressly to do the work, the same thing applies, of course, as if it had been the constituent or subsidiary company which raised capital expressly to do the work. They have to go and raise £100,000, or £1,000,000, or whatever it is, of stock in order to provide the capital to do the work. How can it be said to enhance the value of the undertaking unless it is capable either now or in the future of remunerating them to an extent greater than they have to pay in interest in order to raise the money?

President: How are you going to find that out in regard to any particular widening, because that was the illustration given?

Mr. Merriman: I quite agree that confronted with a question like that one may be in a difficulty, but nevertheless it may be possible, and I understand it possible, with a great many of these works, to say if this principle that I am putting forward is thought to be sound, that nobody could ever possibly say with regard to this, that or the other works, widening or branch line or whatever it may be, that it could ever be worth the money it cost to the amalgamated company. I am only dealing with it on generalities for the moment; may I just illustrate what I mean,

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Continued.

President: I hope you do not think I am interrupting.

Mr. Merriman: On the contrary. I was going to say I like being interrupted, quite seriously; it does help me to know what is passing in the Tribunal's mind, and I assure you it does not embarrass me in the least. Speaking about this quite generally, and not with reference to any particular item in any schedule, because I am not attempting to do that, just let me illustrate what I mean by putting two quotations from railway companies' own documents. The Chairman of the London and North Western Railway Company at a meeting, at a later stage of which he explained the necessity for raising this particular capital, the new Preference Stock issue, said this—and the preceding branch of the paragraph is headed: "Board's view of capital expenditure"—"The general view we hold on the subject of capital expenditure is that it must depend upon actual development which has taken place or upon clear evidence of its proving sufficiently remunerative as soon as the work has been completed." That seems to me to be a very excellent general statement of the principles which should guide people in incurring capital expenditure.

President: Particularly if you are impressing upon people how cautious you were.

Mr. Merriman: May I just read the next sentence: "In one or two cases"—this is contrasted with the general principles—"we have had to give consideration to agreements to carry out certain works entered into with other parties by constituent companies before amalgamation. Any such agreements, when their existence has been proved to our satisfaction, must be honoured." There you have got in a nutshell, quite generally, I agree, the contrast which I am trying to draw. Generally, the Board's policy is: "Do not embark upon any work; do not spend capital on any work unless you are quite sure that it is going to be sufficiently remunerative straight away or in the near future, but there are cases in which we feel ourselves bound in honour to do works and carry on the doing of works which, *ex hypothesi*, will not be remunerative at all." That is one illustration, and there is another which I would like to take from the Great Western this time from the Chairman's observations also at the epoch-making Annual Meeting which occurred after the decision of the Court of Appeal on the 25th February, 1925, where he says this after drawing a piteous picture of the state to which the railway companies generally and the Great Western in particular were being reduced by road competition, contrasting the freedom of the road and, indeed, the expense to which the Great Western Railway Company contributed in having free policemen at every corner, whereas the Great Western had to have elaborate signalling apparatus at their own expense, and so on: "Whilst I am on the subject of road competition I should like to speak a word of warning with regard to certain branch lines. It is no exaggeration to say that many branch lines do not pay, even when allowance is made for their contributive value to the rest of the system. We are considering ways and means of reducing costs of operating branch lines, and the time may come, as I understand is already the case in the United States of America, when some branch lines, at all events, will have to be closed up and the places on them served by road vehicles operated from the nearest trunk line station," a remark which was greeted, as the note shows, with applause. There you have two quite clear concrete instances of the sort of thing which my accountants would like to be allowed to give you details of—I mean, to call attention to this, that or the other item which includes items in respect of things of that sort, of which these two extracts which I have given you are types. But I am not tying myself to branch railways or to the remarks of the Chairman of the London and North Western Railway. I have used those as illustrations of a proposition which I should think is obvious, that there must be included in

these schedules a great number of works which are not in fact, and never have been and never will be, so far as the amalgamated company is concerned, likely to be worth their keep, so to speak. I invite the Tribunal to give us guidance as to whether the formula which I am putting down is a right one, because if it is, then we will pick the figures to pieces on those lines, because I agree the burden is on us. But if, on the other hand, the Tribunal think I am entirely wrong in the position I am putting forward, it would be a waste of public time and a waste of money to attempt to do it. Just before I leave this general proposition, may I say I do not think I am wholly unsupported even on the other side in this respect, because I have been reading some observations which my friend Mr. Macmillan made at the outset of the original Inquiry, and you will find them on page 34 and 35. There, although he starts by suggesting that the test of enhancement was the maintainability of revenue pure and simple, you will see that as he goes on and warns to his subject, he is really maintaining that it means the improbability of revenue, the increasing of revenue, and not merely its maintainability. I do not want to take up time by reading more than I need, but I would like just to call attention to the bottom of page 34, where he says in the last paragraph but one: "It will be open to my learned friends to show, if they can, that this expenditure which we have placed in compartment (b) has not enhanced the value of the undertaking. The phrase is a perfectly general phrase, and is not one which is not very easy to interpret. The root idea, I think, is pretty plain, namely, that it must not be expenditure that has been thrown away; it must be expenditure which has in some way or other redounded to the benefit of the undertaking. If one remembers what is the goal of this Inquiry, namely, the fixing of charges which are to be charged made to the public, it would not be fair, I suppose, that they should be debited in account with having to raise revenue in respect of matters which do not represent beneficial expenditure—expenditure in some way or other enhancing the value of the undertaking. I suppose the works were introduced with that general equity in view, that if they could show that any expenditure did not enhance the value of the undertaking, then there should be no debit to income account in respect of interest upon such unremunerative expenditure. Various views may be taken of what enhancing the value of the undertaking means. Probably one of the most useful ways of expressing it for present purposes, would be that the expenditure is one which goes to the maintainability of the company's revenue. The maintainable revenue of an undertaking is a phrase with which one is quite familiar in valuing undertakings. The maintainability of the revenue of the railway companies is a matter in which the traders are interested as well as the railway companies, and any expenditure which tends to enable the company to maintain its revenue is certainly, as I should submit, expenditure which enhances the value of the undertaking. Let me illustrate from one or two practical cases which will leap to the eye," and it may be that Mr. Macmillan really meant by "maintaining and improving," and practically every illustration that is given is one which means, the revenue-earning power of the company. My friend continues: "Suppose, for example, expenditure has been made in doubling a line. You will not get immediately a return corresponding to the expenditure which you have made; but there can be little doubt that the doubling of that line enhances the value of the undertaking, because the undertaking then is an undertaking which is more fully equipped; it is a more efficient undertaking, and it has better earning powers. You will assume the railway company's directors would not have doubled that line unless they had done so in respect of the traffic on that line. They find, for example—this is the kind of problem they have to face—that there is congestion arising at a particular part of the line. Congestion arising

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means the impeding of traffic. The impeding of traffic reflects itself again in the revenue of the company. The traffic cannot get through a bottle-neck. The trade is diverted elsewhere, and so the result is that the board of directors has then to consider what they shall do, and they say: 'The solution here is to double or quadruple'—as one knows happens in many cases, or even more—the line.' The expenditure having been made, traffic will flow more freely and traffic which may have been for the time being diverted will be re-attracted to that line. Therefore the expenditure will enhance the value of the undertaking because the undertaking has become in consequence of that expenditure a more efficient and a better revenue-earning undertaking." I just want to pause there for one moment and say, while all that is perfectly true of the company which is considering at the time whether it shall double or quadruple its line, what we have to consider is the stage further, of whether it has enhanced the value of the present undertaking, the London, Midland and Scottish, for example, that the Midland or the North Western, as the case may be, should have doubled or quadrupled the line in order to get the other railway company's I know; we had that case before us—the Great Central and the Great Northern.

Mr. Merriman: The test of the Directors' action at the time is correct; but it has got to be taken with that qualification. May I just look at the next paragraph now: "Of course, there are many other forms of expenditure which will go to the benefit of the undertaking. You may, for instance, short-circuit a route. You may build a bit of line across a semicircle and in consequence be able to route your traffic more directly. Well, in a sense of course that may deplete traffic from the roundabout route, which then will serve only local traffic, but it will attract through traffic to the shorter route. But that expenditure is capital expenditure which makes the system more effective and ought ultimately to reflect itself in enhanced revenue. It is something which has been for the benefit of the undertaking. The undertaking is thus a more valuable undertaking because the expenditure has resulted in the undertaking being a more efficient, and therefore a better, revenue-earning undertaking. It has better potentialities of earning; it is able to cater better for the public demand and it is therefore presumably in a position to earn better returns. All that class of expenditure which is made upon railway work in the ordinary case, I think one may assume, is expenditure undertaken with that object in view. Directors, of course, do not want to throw their money into the sea any more than anybody else does." On the other hand, I am entitled to say, and I say it with all submission, that they are not entitled to lump all their expenditure into a set of schedules and say: "Directors do not chuck money into the sea; therefore it is to be assumed with regard to everything"—subject, of course, to the onus of proof, I agree—"merely because it appears in a schedule, although it was spent 10 years ago by one of the subsidiary or constituent companies, it must be taken. Directors do not do foolish things. It has enhanced the value of the present undertaking." It may be a perfectly wise thing for the directors of the subsidiary company to do, and yet it may not and could not possibly be said to have enhanced the value of the existing undertaking at all. Then he puts the converse, which is equally true, that if it result in a diminution of working expenses, and so in better revenue, the result is the same, and I agree respectfully that it is. The point is that he lays stress upon this: It is improving the undertaking and it has been directed to the goal of making the undertaking more efficient and getting what is, of course, the objective of all expenditure on works, a better and more maintainable revenue. It is not merely maintainability; it is better and more maintainable revenue.

My submission is this, that you cannot predicate of any expenditure so far as the existing undertaking is concerned that it has enhanced the value of the undertaking if it can be shown that it is not calculated either now or in any reasonable future which can be anticipated ever to pull its own weight, that is to say, ever either to be an adequate substitute for the free reserves which are spent upon it before the amalgamation, or an adequate substitute for the interest which has got to be paid in respect of the capital which has been raised for it. I agree that with regard to the latter, that is to say, any case where the amalgamated undertaking has raised capital expressly not to replace these free reserves *ex post facto*, but to put down a particular work, in the present state of trade and the money market, and so forth; if there is such a case the presumption is likely to be that they think the thing will be remunerative, that is to say, it will enhance the value of the undertaking. If they have gone in for the expenditure after the amalgamation, and with reference to the amalgamation, I agree *prima facie* it is likely that they think, and that everybody else will think, that it was calculated to enhance the value of the undertaking—not of capital expenditure over, as I shall show in one moment, but, generally speaking, expenditure on things which are *prima facie* calculated to enhance the value of the undertaking. But that is very far from doing so, in my submission, with regard to the things which they were forced to take over. They have to take the rough with the smooth; they have to take this, that, and the other, and, in many cases, it is notorious that they had to take over expenditure and pay for expenditure, which was merely throat-cutting expenditure, and does not result in one-halfpenny piece of value to the amalgamated undertaking.

Mr. Locket: Is there much of that expenditure since 1913?

Mr. Merriman: Of course, there again I cannot answer that offhand—probably a great deal less than there was before.

Mr. Locket: I had hoped that you would be presenting us with a list of works which in your opinion, or in the opinion of your clients, had not enhanced the value of the various undertakings, and that we might have been asked to give an opinion on certain specimens, perhaps, so that they might govern your clients.

Mr. Merriman: That I am prepared to do, and I was just coming to that. What I was going to do was this: I was going to put now some eight or 10 sorts of works, not going in detail into them, which I say in any case cannot be taken to have enhanced the value of the undertaking. That I am going to do, and I might just deal with them now. With regard to the things I have just been dealing with, things which are on the border line which might or might not enhance, according to the circumstances, according to whether they do in fact pull their own weight or not, I say quite frankly that I have not got any specimens for this reason, that to get at the specimens we should have to incur a great deal of expense in investigation, which, subject to your better judgment, we do not think we should be justified in expending unless the Tribunal think it would be useful.

Mr. Locket: Since the beginning of the war there would not have been very much competitive expenditure, I imagine, and it is the competitive expenditure as between one of the constituent companies and the other that you are attacking.

Mr. Merriman: Yes. Mr. Cash points out to me, for example, a footnote in the Great Western Company's economy table: "Cancellation of capital schemes. It was proposed to quadruple the line between Cardiff and Bridgend, but in consequence of the amalgamation of Great Western and Barry Companies it became possible to use the line of the latter Company. The estimated cost of the proposed work was £1,750,000." I cannot help overhearing my friend's observations. I am

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reading it out of the economy table. I am perfectly aware that not a penny of it was spent. I am taking that as an illustration of the sort of thing which, had the amalgamation not happened to take place at that moment, would have been spent.

Mr. Locket: One knows there was an enormous amount of that competitive expenditure in South Wales, particularly before the War, but has there been very much, do you think, during the period we are considering at the present time since the end of 1912?

Mr. Merriman: Here is £1,750,000 which was immediately contemplated had this amalgamation not taken place.

Mr. Locket: That may have been contemplated years earlier.

Mr. Merriman: Whether or not there are other things which have happened just before the amalgamation takes place I cannot say offhand. There is a specimen of it which was only saved by the amalgamation. Then, again, you have got this: I do not know how many branch lines, or loop lines or connections were made during the War—not, of course, only during the War, but in 1913, before the War broke out—or how much land was purchased with regard to things which have become wholly abortive, perhaps even abortive with regard to the companies which originally proposed to erect works on them.

Mr. Locket: I should have thought you could put your finger on those items in these tables which are submitted.

Mr. Merriman: I am told with regard to lands, from the figures we have been given it is utterly impossible to do it without investigating the cases on the spot, so to speak. There is not sufficient information in the tables themselves to enable us to do it. That is what I am told, and I must say, speaking for myself, I can well understand it.

President: If I have followed you correctly, there are a large number of cases where you would raise no question at all?

Mr. Merriman: Oh yes, I think so, certainly.

President: Very well; that disposes of a large number of cases in the table at once which you can draw your pen through and say: "We do not touch those at all."

Mr. Merriman: I do not know that one could do that quite.

President: Then you say there is another class of cases so outrageous that they ought to go at once.

Mr. Merriman: The difficulty of drawing the pen through any particular item is this, that you may not be able to draw your pen through the particular item and say "The whole of that goes out." What we want to be in a position to do is to incur the expense and trouble of investigating whether some part of it should go out, because it is of a category that we think is doubtful, and upon investigation a part of it will be shown to come on our side of the line and not on the other—

President: Then I followed perhaps incorrectly. What you said very clearly was that a certain number of cases which were without dispute you would not question.

Mr. Merriman: If I may put it in this way, clearly a large amount of money has been spent, which expenditure I should not be able to challenge, but I am not in a position to say that, because I have not really gone through the figures for this particular purpose; I should not be able to say, just looking at the right-hand column, that the summation of items under a particular heading can all go unchallenged.

President: I do not suppose you would personally, but your advisers have gone through this thing very carefully, and I should have thought would have said: "Well, we cannot touch that," and when they came to the other one: "That ought to go clearly on any principle," and then you would have had a residuum of some size left where you could have followed what my colleague says are specimen cases;

you could have said: "Here is a case of so-and-so where our rule applies; let us see what the Tribunal think about that."

Mr. Merriman: I see your point, and I think I can answer it, if I may do so, in this way: Let me take, for example, the heads of items which I say in my view cannot enhance the value of the enlarged undertaking. One of those is mineral support. There are through these various Schedules items for mineral support; my submission is that that as a whole is an inadmissible item, and, of course, again I cannot say that every single specimen of it is, because it may be on an investigation it may turn out that they are able to justify some particular item of mineral support, but, speaking generally, my submission is that items of mineral support cannot enhance the value of the undertaking. Let me just illustrate what I am going to submit in this way: After all, the most that can possibly be said for it is that it is a postponed payment of purchase money which the pre-1913 shareholders ought to have found. In fact, what it is, is this: it is payment for something which the Directors now think necessary to pay in order to prevent their line from falling in. In my submission, it no more enhances the value of a railway undertaking than in the familiar illustration with which all of us who have ever had anything to do with rating remember is the illustration that is always given about unproductive expenditure, the case of one of a row of a dozen houses, all built identically alike, all, so far as structure and bricks and mortar are concerned, identical in every respect, but with regard to one of which it is found that the ground on which it is placed when the building is in progress has got a well, or something underneath it which requires a special form of support on which heavy expenditure has to be made. The value of that house in the market is not in the least enhanced either for rating, or any other purpose, by the fact that that increased expenditure has had to be placed on that particular house as distinct from its 11 fellows. I submit in the same way that it is quite fallacious to seek to charge now money paid for mineral support as enhancing the value of the present undertaking.

Mr. Jepson: Are you not putting it very much too high, because one has in mind lots of cases where when railways have been built the minerals have been far enough away and the railway company had not to consider purchasing the minerals, but the time comes when the workings extend right up to some of their bridges and stations, or something of that kind, and notice has to be given under the Acts as you know; the company then has to make up its mind whether it will buy or not, and rather than have the place let down they decide after proper advice to buy the minerals for support. Do you say that does not enhance the value of the undertaking rather than leave it alone and let the bridges collapse or the station buildings go down?

Mr. Merriman: Is it not a question in which particular way they have to spend the money to keep the thing going; it would cost them more if they do not do it by purchasing the mineral support to maintain the structures above ground, but at the end of it they have only maintained the existing structure; they have not enhanced the value of the undertaking.

President: It is something to prevent it going down a shoot.

Mr. Jepson: If you save expense on maintenance it is enhancing the value of the undertaking surely?

Mr. Merriman: I can see that there may be cases in which it may be said that in the particular case of purchasing a mineral support that it has enhanced the value of the undertaking in that way.

Mr. Jepson: In all these cases there must have been some good reason for the railway company purchasing the minerals. They do not do it for fun. They do not say, "We have a lot of money to spend; let us go and purchase these minerals." A strong case must be made out for it, surely.

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Mr. Merriman: Let me put it in this way: I can quite see that there may be cases where the expenditure above ground would be so enormously increased that it would be ridiculous to incur it. On the other hand, it may be that it is only a particular strip of minerals under a bit of line in the open country, and that really the expense of purchasing the minerals is altogether out of proportion to the increased cost of maintenance.

Mr. Macmillan: I am sure my friend will not resent my interfering for a moment. Of course, you do not purchase minerals at all. What you do is, you make a payment in respect of the non-working of the minerals. It has been decided by the House of Lords that you do not purchase the minerals, so that if the line were subsequently diverted the minerals would remain the property of the person who had them. That is, therefore, material; the railway company does not pay this money to acquire the minerals, but only for self-protection.

Mr. Jepson: They buy the support.

Mr. Merriman: Yes; they buy support; that is quite true. What we feel a difficulty in seeing is this: I agree with Mr. Macmillan that it is important to remember that they do not buy the minerals themselves, that is to say, it is not a case of having to buy a large area of minerals and being able to work some of them and make a profit out of some of them and strike a profit and loss account or anything of that sort. They have simply got to pay this money in order to keep the ground on which their line runs flat, and it does seem to me, with respect, to be (speaking generally, though there may be particular instances to the contrary) rather a misnomer to talk of that as enhancing the value of the undertaking. I agree that you may get cases where the cost of maintaining the earning capacity of the line may be so extravagant above ground that it must be right to do that at any hazard; you may get such a case, but in my submission that cannot be the universal case.

That is mineral support. Now with regard to signalling, there are a great many items. I do not know, of course, whether those are all new signals or whether they are not; there is no detail; but if they are not I do just call attention to this, that in dealing with this enhancement point Mr. Macmillan was in fact talking about (c) at the time, though he said that no doubt the words in (c) must received the same interpretation as they would receive in the preceding paragraph (b). Mr. Macmillan said this with regard to (c): "We have also excluded, for example, expenditure on a steamship furnished for an established route, an existing route which we were serving; if we bought a new steamer for that established route we have excluded that expenditure"—in other words, renewals are excluded with regard to enhancement under (c), and I should hope under (b) also. "We have also excluded capital expenditure, which could not be described as directly remunerative, as, for example, expenditure upon improved signalling methods." I do not know, and I have no means of knowing, how many of these items for signalling scattered up and down these various schedules, and there are a great many, come within that category, but if improved signalling methods are excluded for the purpose of enhancement under (c) there is no conceivable reason why they should not be excluded for the purpose of enhancement under (b). What one, of course, cannot help suspecting about all this is—indeed they have said it sometimes in regard to some things, in fact—that everything that is not in (a) is automatically put into (b). One rather wonders whether some things which are excluded from (c) as not being enhancement have been included in (b).

Mr. Jepson: You cannot have things of that nature because I thought (c) related to expenditure before 1913, which had not fructified, and (b) related to expenditure since 1913.

Mr. Merriman: Yes, I agree, but that does not touch, does it, the question of a mere improvement

of existing signalling simply by a new sort of signal that is put up because of some new requirement?

Mr. Jepson: I quite agree you might have both those cases in (b) and (c), but not interchangeably one with the other.

Mr. Merriman: No, I did not mean that.

President: You rather meant that you did not know under which it was.

Mr. Merriman: Yes. I do not mean to say they have taken things out of (c) and put them into (b). What I do mean is, that although they are very careful about the principle on which they make it (c), they may have forgotten it when they made it (b). There again, I cannot actually point to a particular item—there are many of them—and say: "This particular item of signalling must go out because I cannot split it up." I do not know, but I will know if the Tribunal will tell me that it is worth while going into it.

Then again, with regard to land, I have already dealt with that, but there are lots of items of land. I agree that the only likely ones are land which was purchased, say, in 1913 or in 1914, before the outbreak of war for purposes which have since become abortive owing to the amalgamation; nothing in fact was done during the war and the particular purpose has now become abortive. Any such item as that obviously must come out, and again I cannot say, because they are not identified in any way, that any particular sum put down in respect of land does come under that heading, but once I know that it is profitable to make that inquiry I might very easily make it.

Now there is another big item, and this is particularly illustrated by one rather notable item which I do not profess entirely to understand, but which seems to me to be wholly inadmissible unless I have misunderstood it altogether, and that is under the heading of loans to other companies—not to subsidiary companies, but to companies outside the amalgamation altogether. There is one particular instance of £819,000; that was a loan by the London and North Western, as I suppose it then was, before the amalgamation to the London Electric Railway; they got interest on it, and I understand there is some question of their getting a return on the traffic in respect of running powers, I presume. How a loan to another railway company outside the amalgamation, first of all, can be said to be capital expenditure at all, I am not quite clear about; but how can it be said to be the sort of capital expenditure which enhances the value of the loaning undertaking any more than any other investment? If you make a profitable investment you may be said, no doubt in one sense, to enhance the value of the undertaking, but nobody has hitherto suggested that the money that they invest in Player's or the Imperial Tobacco Company, or anything else is a capital expenditure on which they are entitled to remuneration here.

Mr. Locket: Is it not supposed to bring in its own remuneration?

Mr. Merriman: Well, it brings in a remuneration of 4 per cent. The loan is at 4 per cent., and presumably can be recalled. I do not pretend to know the exact terms of it, but in so far as it is a loan at 4 per cent., it does not enhance the value of the undertaking. In so far as it is a loan at all, it is not a capital expenditure I would suggest, but no doubt there is a provision that they get some benefit from traffic returns of the London Electric Company so long as the loan is current, and that may tend to show that it enhances the value of the undertaking, but it certainly does not tend to show that it is a capital expenditure.

Mr. Jepson: If it can be shown that in addition to having 4 per cent. on the amount advances they also get additional traffic by reason of the arrangements with the London Electric Company, ought not that fact to enhance the value of the undertaking?

Mr. Merriman: It might enhance the value of the undertaking, but would it be a capital expenditure

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[Continued.]

which enhances the value of the undertaking? I submit not, because, after all, the thing, first to last, is simply a loan to the London Electric Company at interest.

Mr. Jepson: In this particular case I think I am right in saying the London Midland and Scottish, or the London and North Western, spent a large amount of money themselves for the purpose of making a connection with the London Electric Company so as to afford through electric communication between London and places down as far as Watford, the assumption being that the provision of this through electric communication would very much increase the traffic between places between Watford on the London and North Western Railway and the City and West End. In order to enable the scheme to be carried out, which was in the general interest, the London and North Western were asked to find about £1,000,000, or something like that, to be advanced to the London Electric Company, on which, in addition to the additional traffic they expected, they were to receive 4 per cent.

Mr. Merriman: If it had been capital invested, that is one thing.

Mr. Jepson: You do not object apparently to the amount or capital that the London and North Western spent as part of the scheme ranking for allowance under (b).

Mr. Merriman: No.

Mr. Jepson: But you object to the link which is necessary to make this scheme a good one coming in.

Mr. Merriman: What I say in effect is, that if as part of the arrangement, or part of their own electrification even, they choose to lend money to somebody else, they can get that money back; it is not a matter for all time. It is not a capital expenditure in the sense that their own electrification is a capital expenditure. It is a loan upon which they get interest, and from which, as long as they allow it to outstand, they get no doubt certain other advantages as well in percentage of traffic returns, or whatever it is. The transaction as a whole may have enhanced the value of the undertaking; it may have been a very wise thing to lend that money to the London Electric Company instead of lending it to the Government, and to that extent may enhance the value of the undertaking; but it is not a capital expenditure enhancing the value of the undertaking. That is my submission.

Then the next thing is a small item perhaps, though there is one very big specimen of it; that is Parliamentary and law costs. That is lumped in with the other things. I should be prepared to admit that for the purposes of promotion of a Bill of their own to get particular powers the Parliamentary costs, of course, were part of the expenses just as much as the bricks and mortar, but then again with regard to this, it has got to be borne in mind that one has got to be satisfied that it has enhanced the value of the amalgamated undertaking, so that even with regard to the promotion expenses by subsidiary or constituent companies one has to be satisfied that the particular work for which they were asking power in Parliament is a work which enhances the value of the amalgamated undertaking, and unless it does the law costs referable to the promoting of that go with the work itself, and incidentally they come into calculation in this sense, that they have to be taken into account in seeing the load which that particular work has got to bear before you could predicate of it that it has enhanced the value of the undertaking. These are in one category; in the other category are Parliamentary costs or law costs incurred in resisting the powers which companies with whom they are now amalgamated were applying for, and in my submission by no conceivable stretch of the imagination could it be said that the money so spent, if any of it was so spent, could enhance the value of the amalgamated undertaking. I see members of the Parliamentary Bar round me. I can see one undertaking, the value of which it may be said to have enhanced, but that is not the under-

taking of the amalgamated railway companies. The undertaking of carrying on the practice or profession of Parliamentary barrister may be enhanced by opposing other people's Bills, but not the amalgamated companies' undertaking, when the two or three people by whom it is opposed were spending money opposing each others' Bills before amalgamation.

Then there is an item for strengthening bridges, or, rather, many items. It is a case of strengthening bridges to carry a double line, or something of that sort, they may come into the same category as the doubling of the line.

President: For a heavier locomotive, possibly; that is a very usual reason.

Mr. Merriman: It may be so, but if it is only—to put it quite generally—the sort of thing which has occurred, shall we say to Waterloo Bridge, or something which is necessary because the original bridge was not built strongly enough, or well enough, then, I submit, that it ought to be ruled out.

The same thing applies to rolling stock. Rolling stock may or may not enhance the value of the undertaking, but what we ought to know is whether, with regard to any of these items of rolling stock, it is simply replacement, because if it is replacement then clearly it is not, in my submission, a capital expenditure which enhances the value of the undertaking.

Then there are a large number of works which are simply described as reconstruction or improvements; there is no other description given to them except that they are reconstruction or improvements, and *prima facie* I submit that those do not enhance the value of the undertaking, but I am perfectly prepared to admit that there may be some of them that do. These are works all up and down the country, and before we incur expense in investigating particular items, as I say, we should like to know whether reconstruction, and, in certain instances, improvements, are likely to be things which *prima facie* enhance the value of the undertaking at all. Improvements may, but reconstruction, I submit, cannot unless it is a reconstruction for the purposes of enlargement, or something of that sort, and reconstruction which is really a new and enlarged construction. That I can understand; it may be that they are that sort of thing; but if it is simply reconstruction, how can it enhance the value of the undertaking? My learned friend, Mr. Abady, reminds me that there is, for example, this sort of item—changing a system of lighting at a particular station. It may look more beautiful, but it does not necessarily enhance the value of the undertaking.

Now with regard to housing schemes, there are a considerable number of substantial items in respect of these housing schemes, and in respect of the provision of labouring class dwellings. I can understand the argument that if you provide houses for your own workpeople that really is a contribution to their real wages, and, *pro tanto*, reduces the other working expenses, but except regarded as an investment how can the provision of houses for people other than your own workpeople be regarded as enhancing the value of the railway undertaking? I do not know whether any and which of these are houses provided for their own people. One knows that there are such cases at Swindon, for example; I imagine that the railway company provided many of those streets of houses which accommodate the people working at the works; but so far as I can see, simply judging from the Schedule itself, a great many of these housing schemes are not schemes of that sort at all, but are just simply the provision of houses on land which perhaps has been acquired for other purposes, not necessarily for the purposes of their own workpeople at all, and others of them are simply to replace, I imagine, houses which they have had to take down in the course of building a particular work. With regard to those, I suggest that *prima facie* none of this expenditure on housing schemes can be taken to have enhanced the value of the undertaking, but

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[Continued.]

again I say it may be, on an investigation, some of them could be said to be. I do not want to take an investigation in the air. I would like to know whether it is likely to be a profitable investigation, likely to lead somewhere or not.

President: How would it be if the housing scheme, or the re-housing of the working classes, was ancillary to a desirable improvement? Supposing you wanted to come into Cannon Street from the South over the river and they said: "You cannot come in because you will have to take down these houses of the working class, or you will have to re-house them." Cannot you consider it as a whole?

Mr. Merriman: Yes, I think you can; I would be prepared to admit that, but that is very much like your Parliamentary costs, or anything else. You would have to regard the provision of these houses as part of the expense of going into Cannon Street, or doing whatever the work was; you would then have to look at it as a whole and say: "We have totted up all the items which it has really cost us to do this, not merely the actual construction of the building itself, but all those ancillary items which, spent as a whole, enhance the value of the undertaking." I quite agree one would be entitled to take it into account in that respect. All I say is that *prima facie* regarded as an item by itself it does not enhance the value of the undertaking. If it is to be taken in as part of some other work, then I would like to be able to submit evidence as to whether that particular work as a whole, taking that item into account with other things, has enhanced the value of the undertaking.

Then there are such trifling things, which it is not worth spending time on, as the Stamp Duties in connection with Releases, and the raising of capital, and so on, which stand, in my submission, on the same footing as the lay costs. They may, or may not, be part of the necessary expense of something which, when all those items are taken into account, does, or does not, enhance the value of the undertaking. Others of them, one would suppose, quite clearly would not enhance the value of the undertaking, but that is a very small item, and I do not think it is worth while spending time in discussing it.

I have now given you some eight or nine—ten perhaps—illustrations of things, some items of which dotted up and down these Schedules we say if they were analysed almost certainly must result in showing that items are included which cannot enhance the value of the undertaking, and I have tried to suggest a general formula with regard to things which may, or may not, *prima facie*, enhance the value of the undertaking.

President: That is, whether they earn as much as the investment?

Mr. Merriman: Whether they earn their keep. I know the onus is upon me with regard to this, but I do invite some expression of opinion from the Tribunal with regard to it before we are called upon to incur the expense of dissecting hundreds, or it may be thousands, of items, many of which cannot be really investigated without sending people down to the country to do it.

President: But then you really ask for decisions on specimen cases. You have not really enunciated any further principle than enhancement, and whether this particular work comes within the enhancement or not. You lay down certain tests with regard to that particular work, but we are not any further, and I do not think we shall ever get any further, in the definition in the abstract of enhancement. You have invited our attention to particular cases where you say it may be that they do enhance, or it may be that they do not enhance, and you want to know this, that, or the other. All that we should want to know.

Mr. Merriman: But the real difference, I think, between my friend and myself is this, that they say that anything which is spent on the understanding enhances its value.

President: Then you say, *per contra*: "I can put my hand on a great manythings in your Schedule which do not"; is not that so?

Mr. Merriman: Yes. That is my difficulty. If I could put my hand on a particular item in the Schedule and say: "The whole of that must come out because it does not" my task would be very much easier, but I cannot, because these things are not single items; they are aggregates of items, and although they come under a category which I say is open to attack it may be that the whole item, even if I had succeeded in attacking part of it, will not come out.

President: That is a question of detail even where it is possible, is it not? You cannot put your hand on any particular item without asking someone further to investigate it and find out whether it contains the element which you say renders it reprehensible.

Mr. Merriman: That is so.

President: I cannot find out that sitting here, and I cannot find it out by laying down a general principle.

Mr. Merriman: No, but what you can do by laying down a general principle is, you can help us to say whether it is worth while investigating any of these items at all, or whether we should take them all as they stand now and admit them; that is where you can help us, with the greatest respect.

President: I do not quite see that. You have the right of challenging all the items in this Schedule.

Mr. Merriman: I know I have.

President: You say: "I cannot even begin"; is that it?

Mr. Merriman: No, I do not say I cannot begin. Of course, I can begin an investigation, and I want you to appreciate what our real difficulty is. I have now indicated some dozen categories of items.

President: But those categories, if I understood you rightly, in the whole of your speech are of the doubtful sort; there are certain things which you would admit, and certain things which you would reject at once on view, looking at the Schedule.

Mr. Merriman: There are some things which I expect to be able to reject on view. May I put it in this way: In these little discussions we have just had on the things which I was putting as being the things I would reject on the view, I have been able to admit in the course of the argument that with regard to some of those even it might be that they could enhance the value of the undertaking, but with regard to the things which are doubtful—let me take that category first, because that is one difficulty—with regard to those which, on the face of it, are described as being works which might very well enhance the value of the undertaking I do ask you just to see what our task is unless the Court will give us some assistance. Unless the Court will tell us "Yes" or "No," is the criterion that they do not pull their own weight, or are not likely to pull their own weight, we should have to go and investigate at large up and down the country to bring you evidence.

President: But you will have to do that even if I tell you that, because you will know it from looking at the things.

Mr. Merriman: At any rate, I shall know that.

President: You know you have a goal to aim at, but it will not save you much time, will it? Suppose we began with this Schedule D on page 6 of this particular book and took the first list of things. There are the Goole Independent lines; suppose we laid down the rule which you suggest: Did it pull its own weight; did it earn as much as it would have earned if invested in War Loan? you would have to go and try and find out whether it did or not.

Mr. Merriman: Yes.

President: Well, how would you find out?

Mr. Merriman: I think we can find out, but I am anxious to avoid—

President: I quite see, but I am testing your instance.

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[Continued.]

Mr. Merriman: What I am trying to avoid is going to do all that, and then presenting these cases to you as cases that do not pull their own weight, and at the end of it being told: "That is not the test at all. It is not the test whether they pull their own weight. As long as it can be shown that they earn any money at all they have enhanced the value of the undertaking."

President: I know, but is not it difficult to lay down a hard and fast rule of that sort, that they must earn as much as they would elsewhere? They may contribute in some other way. They may bring traffic to the main line and enhance the value of the main line. How am I going to analyse all that, or how are you?

Mr. Merriman: How does the railway director decide whether it would enhance it?

President: He probably goes on the view of it generally. He does not ask whether it is above or below a certain figure; he thinks ultimately it will be

an advantageous thing. I do not know what is in the mind of the director. I do not suppose he calculates it out to so many places of decimals; I suppose it is much more rule of thumb than that.

Mr. Merriman: Yes. Of course, I am not going to attempt to fight this on the basis of decimals.

President: But you might have to.

Mr. Merriman: That is a thing one must take a broad view about, of course; I quite agree that; and, moreover, I do not want to be seeking to put it too narrowly either, because I should be prepared to admit that it is not enough merely to say, "This has not already begun to earn money," if the thing quite obviously is calculated to carry its own weight. I am prepared to concede that, of course.

President: Might we adjourn now? I hope we are not interrupting you in any stage of your address.

Mr. Merriman: No; on the contrary, I had really finished my address.

President: Then we might think about it during the evening.

(Adjourned to to-morrow morning at 10.30.)

APPENDIX.

(Handed in by Mr. Quirey.)

LONDON AND NORTH EASTERN RAILWAY.

RAILWAYS ACT, 1921—STANDARD REVENUE—SECTION 58 (1) (b).

ADJUSTMENT OF EXHIBIT R.T. 2a, SCHEDULE "D" AS ORIGINALLY PREPARED, TO EXHIBIT LODGED WITH RAILWAY RATES TRIBUNAL ON 16TH FEBRUARY, 1925.

Description of Work.	Railway.	Omnibuses.	Steamboats.	Canals.	Docks, Harbours and Wharves.	Hotels, Refreshment Rooms and Cabs.	Miscellaneous Expenditure not relating to first seven items of Account No. 8, Railway Companies (Accounts and Returns) Act, 1911.	Total.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
TOTAL AS PRINTED IN R.T. 2A	£ 1,928,254	Cr. £ 27,432	£ 315,096	Cr. £ 69,470	£ 1,031,684	Cr. £ 46,906	£ 56,939	£ 3,188,165
<i>North Eastern.</i>								
Lines open for Traffic—								
Sundry works costing less than £5,000—								
Permanent Way and Additional Siding Accommodation.	678	—	—	—	—	—	—	678
Additional Station and Office Accommodation.	1,265	—	—	—	—	—	—	1,265
Minor Works	10	—	—	—	—	—	—	10
Docks, Harbours and Wharves.	—	—	—	—	—	—	—	—
Sundry works costing less than £5,000.	—	—	—	—	1,850	—	—	1,850
<i>Great Central.</i>								
Lines not open for Traffic—								
Seaforth and Sefton Junction Railway.	97,298	—	—	—	—	—	—	97,298
Land, Property, &c., not forming part of Railway or Stations not used in connection with Railway Working.	—	—	—	—	—	—	Cr. 97,298	Cr. 97,298
<i>Great Eastern.</i>								
Lines open for Traffic—								
Sundry Land Purchases and Sales.	Cr. 550	—	—	—	—	—	—	Cr. 550
Stratford—Coaling Plant ...	1,458	—	—	—	—	—	—	1,458
Parkeston—Sub "Torpedo Depot Purchased.	Cr. 9,450	—	—	—	—	—	—	Cr. 9,450
Telephone communications...	Cr. 5,983	—	—	—	—	—	—	Cr. 5,983
Sundry works costing less than £5,000.	2,142	—	—	—	—	—	—	2,142
Permanent Way and Additional Siding Accommodation.	103	—	—	—	—	—	—	103
Telegraphs	Cr. 64	—	—	—	—	—	—	Cr. 64
Minor Works... ..	—	—	105,032	—	—	—	—	105,032
Steamboats	—	—	—	—	—	Cr. 777	—	Cr. 777
Hotels—Felix Hotel, Additions.	—	—	—	—	—	—	—	—
Docks, Harbours and Wharves—Lowestoft Harbour Additions.	—	—	—	—	Cr. 519	—	—	Cr. 519
<i>Great Northern.</i>								
Lines not open for Traffic—								
Seaforth and Sefton Junction Railway.	113,762	—	—	—	—	—	—	113,762
Land and Property not forming part of Railway or Stations.	—	—	—	—	—	—	Cr. 113,762	113,762
<i>Hull and Barnsley.</i>								
Manufacturing and Repairing Works and Plant—Plant and Machinery—								
Sundry works costing less than £5,000.	46	—	—	—	—	—	—	46
<i>Great North of Scotland.</i>								
Rolling Stock—								
Sundry works costing less than £5,000.	3,477	—	—	—	—	—	—	3,477
<i>Hull and Barnsley and Great Central Joint.</i>								
Sundry works costing less than £5,000.	320	—	—	—	—	—	—	320
Carried Forward ...	2,132,766	Cr. 27,432	420,128	Cr. 69,470	1,033,015	Cr. 47,583	Cr. 154,121	3,287,203

LONDON AND NORTH EASTERN RAILWAY—continued.

Description of Work.	Railway.	Omnibuses.	Steamboats.	Canals.	Docks, Harbours and Wharves.	Hotels, Refreshment Rooms and Cabs.	Miscellaneous Expenditure not relating to first seven items of Account No. 4, Railway Companies (Accounts and Returns) Act 1911.	Total.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Brought Forward ...	£ 2,132,766	£ Cr. 27,432	£ 420,128	£ Cr. 69,470	£ 1,033,015	£ Cr. 47,583	£ Cr. 154,121	£ 3,287,203
<i>Great Western and Great Central Joint Committee.</i>								
To adjust Section 58 (1) (a) ...	Cr. 1,657	—	—	—	—	—	—	Cr. 1,657
Total adjustments due to Ministry Certification.	Cr. 8,205	—	105,032	—	1,331	Cr. 777	—	97,381
<i>Seaford and Sifton</i> ...	211,060	—	—	—	—	—	Cr. 211,060	—
<i>West Riding Railway Committee.</i>								
Lines open for Traffic—								
Sundry works, etc., costing less than £5,000—								
Land ...	256	—	—	—	—	—	—	256
Permanent Way ...	Cr. 1,025	—	—	—	—	—	—	Cr. 1,025
Additional Stations, etc. ...	Cr. 120	—	—	—	—	—	—	Cr. 120
Signalling ...	Cr. 314	—	—	—	—	—	—	Cr. 314
Mineral Support ...	Cr. 206	—	—	—	—	—	—	Cr. 206
Lines open for Traffic—	8,979	—	—	—	—	—	—	8,979
Doncaster to Adwick.								
Sundry works, etc., costing less than £5,000.	55	—	—	—	—	—	—	55
Land and Property not forming part of Railway.								
Sundry works, etc., costing less than £5,000.	2,319	—	—	—	—	—	—	2,319
Total West Riding ...	9,944	—	—	—	—	—	—	9,944
<i>London and North Eastern.</i>								
Lines open for Traffic—								
Sundry lands costing less than £5,000.	Cr. 103	—	—	—	—	—	—	Cr. 103
Permanent Way and additional Siding accommodation.	Cr. 884	—	—	—	—	—	—	Cr. 884
Rolling Stock—								
Locomotives, etc. ...	Cr. 26,019	—	—	—	—	—	—	Cr. 26,019
Manufacturing and Repairing Works and Plant—								
Plant and Machinery—	Cr. 9,877	—	—	—	—	—	—	Cr. 9,877
Machinery sold								
Road Vehicles—								
Sundry works, etc., costing less than £5,000.	Cr. 343	—	—	—	—	—	—	Cr. 343
Steamboats—								
Vessels lost ...	—	—	Cr. 83,667	—	—	—	—	Cr. 83,667
Ferryboats sold ...	—	—	Cr. 1,438	—	—	—	—	Cr. 1,438
Docks, Harbours and Wharves—								
King George Dock, Hull ...	—	—	—	—	Cr. 137,110	—	—	Cr. 137,110
Hotels, Furniture ...	—	—	—	—	—	6,765	—	6,765
Land, Property, etc., not forming part of Railway or Stations not used in connection with Railway.								
Working—								
Capitalised Rent Charges—	—	—	—	—	—	—	6,000	6,000
River Wear.	—	—	—	—	—	—	Cr. 566	Cr. 566
Sundry works costing less than £5,000.	—	—	—	—	—	—	—	—
Subscriptions to other Companies—								
Sale of securities ...	—	—	—	—	—	—	Cr. 189,566	Cr. 189,566
Total adjustments at date of vesting.	Cr. 37,226	—	Cr. 85,105	—	Cr. 137,110	6,765	Cr. 184,132	Cr. 436,808
Grand Total ...	2,103,827	Cr. 27,432	335,023	Cr. 69,470	895,905	Cr. 40,918	Cr. 338,253	2,858,682

Handed in by Mr. Quirey.
SOUTHERN RAILWAY.
STATEMENT GIVING PARTICULARS OF AMENDMENTS TO SCHEDULES "C" AND "D" OF EXHIBIT R.T.5A.

	Schedule "C." Increase or Decrease.	Schedule "D." Increase or Decrease.
<i>London Brighton & South Coast—</i>		
Turbine Steamer "Versailles"	£ 2,264	£ 2,264
<i>South Eastern & Chatham—</i>		
Longhedge Works—Cr. for machinery displaced	2,711	—
London Bridge—Footbridge	79	79
Sheerness Branch—New Loop Line	629	629
Office Accommodation, &c.—Ashford Works	1,297	1,297
<i>Isle of Wight Central—</i>		
Sidings at Medina Wharf—Credit for Materials not used	88	—
<i>J—Joint Line—Somerset Joint Committee—</i>		
Land not used in connection with Railway Working— Southern Company's proportion	7	—
<i>Schedule "C"—Decrease</i>	£4,481	—
<i>Schedule "D"—Increase</i>	—	£1,675

J. Q. 4. (Amended).

Handed in by Mr. John Quirey.
RECONCILIATION OF NETT CAPITAL EXPENDITURE OF YEARS 1913 TO 1923 INCLUSIVE WITH CLAIMS
UNDER SECTION 58 (1)—PARAGRAPHS (a) AND (b).

Capital Expenditure.	London and North Eastern Railway.	London Mid- land and Scot- tish Railway.	Southern Railway.	Great Western Railway.
CONSTITUENT AND SUBSIDIARY COMPANIES.	£	£	£	£
31st December, 1921 (or 1922)	340,391,300	442,915,808	148,780,376	—
" " 1912	327,206,006	429,925,362	144,727,012	—
Expenditure from 1st January, 1913	13,185,294	12,990,446	4,053,364	Capital Expenditure :
Amalgamated Companies, 1922	680,480	1,030,110	97,662	31st Dec., 1923 ... 167,805,054
" " 1923	767,907	1,019,025	—	31st Dec., 1912 ... 156,612,549
TOTAL	14,633,581	15,039,581	4,151,026	11,192,505
Add : Proportion of "J" Joint Lines.	68,921	3,085	27,455 (Deduct)	1,183
Great Central Railway. Pro- portion of Seaforth and Sefton Junction Railway.	104,815	—	—	—
TOTAL, 1913 to 1923, in- clusive.	14,807,317	15,042,616	4,123,571	11,198,688
Deduct : Expenditure in 1913 or later upon works brought into use prior to 1913.	232,874	29,485	21,438	116,868
Adjustment at date of vesting af- fecting Section 58 (1) (b).	436,808	—	—	—
Expenditure since 1st January, 1913, comparable with claims under (A) and (B).	14,137,635	15,013,131	4,102,133	11,076,820
Amount of Claim Section 58 (1) (a)	14,032,065	11,398,139	3,833,900	7,821,454
Less : Great Western Railway Ex- penditure at Fishguard not included in Capital Account	—	—	—	355,306
Expenditure prior to 1913 on works brought into use after 1st January, 1913.	3,696,505	899,343	413,087	2,154,815
Adjusted Expenditure, 1st January, 1913 to 15th August, 1921.	10,335,560	10,498,796	3,420,813	5,311,333
Balance of Expenditure not in- cluded in 58 (1) (a).	3,802,075	4,514,335	681,320	5,765,487
Amount of Claim 58 (1) (b) ...	2,858,682	4,034,891	793,725	5,853,316
Differences	943,393	479,444	(Cr.) 112,405	(Cr.) 87,899
EXPLANATIONS OF DIFFERENCES.				
Subscriptions to "J" Joint Lines, &c.	602,404	(Cr.) 31,738	(Cr.) 35,236	—
Conversion of Stocks	217,282	416,621	—	—
Credits which were merely book entries.	59,233	—	(Cr.) 92,021	(Cr.) 91,793
Amounts expended and not claimed.	64,474	94,561	14,852	3,964

NOTE.—The figures for 58 (1) (a) claim have been reduced by the amount of Forth Bridge Railway Company expenditure £25,194, and by the Estimated capitalised value of Rent Charges (L. & N.E. £59,657, L.M.S. £29,975 and Southern £754).